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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO

VIA FAX

CIV 588210

15 LILLIANA SANCHEZ, YOLANDA
16 CAMEY, JUAN CARLOS RAMIREZ, JOSE
17 ANTONIO HERNANDEZ, JUAN CARLOS
18 HERNANDEZ, JOSE ALFARO, IRMA
19 GONZALEZ AGUILAR, LUCINA
20 CALINDO, individually and on behalf of all
21 others similarly situated,

22 Plaintiffs,

23 vs.

24 CAPITAL CONTRACTORS INC., a New
25 York Corporation which will do business in
26 California as, CAPITAL BUILDING
27 MAINTENANCE SERVICES INC.; and
28 DOES 1-30, inclusive, DOES 1 to 30,
inclusive,

Defendants.

Case No.

CLASS ACTION


COMPLAINT FOR DAMAGES:

1. Misclassification as Independent Contractors and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 226.8 and 2698, et seq.;
2. Unlawful Terms and Conditions and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 432.5 and 2698, et seq.;
3. Failure to Indemnify and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 2802 and 2698, et seq.;
4. Unlawful Deductions and Secret Under Payment of Wages and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 221, 223, 224, 1198, 2698, et seq. and IWC Wage Order;

FILED
SAN MATEO COUNTY

APR 25 2014

Clerk of the Superior Court

By  **REBEKAH**

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5. Failure to Pay Overtime Wages and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 510, 1198, 2698, et seq. and IWC Order;
6. Failure to Provide Meal Periods and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 226.7, 512 and IWC Wage Order;
7. Failure to Provide Rest Periods and Private Attorney Gen. Act (PAGA); Violation of Labor Code § 226.7 and IWC Wage Order;
8. Failure to Pay Minimum Wages and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 1197, 1198, 2698, et seq. and IWC Wage Order;
9. Failure To Provide Accurate Itemized Wage Statements and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 226, 1174, 1198, 2698, et seq. and IWC Wage Order ;
10. Failure to Pay Timely Wages During Employment and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 204, 1198, 2698, et seq.;
11. Failure to Pay Wages Due Upon Termination of Employment and Private Attorney Gen. Act (PAGA); Violation of Labor Code §§ 201, 202, 2698, et seq.;
12. Negligent Misrepresentation; Civil Code §1709, 1710;
13. Unfair Business Practice; Violation of Business & Professions Code §§17200, et seq.;

Plaintiffs DEMAND JURY TRIAL

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1 Plaintiffs LILLIANA SANCHEZ, YOLANDA CAMEY, JUAN CARLOS RAMIREZ,
2 JOSE ANTONIO HERNANDEZ, JUAN CARLOS HERNANDEZ, JOSE ALFARO, IRMA
3 GONZALEZ AGUILAR, and LUCINA CALINDO (hereinafter collectively referred to as
4 “Plaintiffs”), on behalf of themselves and all others similarly situated, bring this action against
5 Defendant CAPITAL CONTRACTORS INC., dba CAPITAL BUILDING MAINTENANCE
6 SERVICES INC. (hereinafter referred as “CAPITAL”) and allege as follows:

7 **I. PRELIMINARY STATEMENT**

8 1. CAPITAL operates a large-scale janitorial services operation. Plaintiffs worked
9 for CAPITAL during the period of April 2010 through the present.

10 2. This is a class action pursuant to Code of Civil Procedure § 382 for wage and
11 labor violations arising out of CAPITAL’s misclassification and mistreatment of its employees.
12 In particular, CAPITAL systematically (a) misclassified full-time employees as independent
13 contractors; and (b) deprived employees of timely and accurate wages.

14 3. CAPITAL contracts with companies to perform janitorial work for CAPITAL’s
15 clients. CAPITAL misclassifies the owners of these companies as independent contractors
16 (“ICs”). The ICs then perform the janitorial work for CAPITAL’s clients, and/or employ
17 janitorial workers (“JWs”) to perform the janitorial work for CAPITAL’s clients.

18 4. The ICs are responsible for cleaning CAPITAL’s clients’ properties and/or
19 marshaling and overseeing the JWs, who clean CAPITAL’s clients’ properties. CAPITAL’s
20 policies and practices require all ICs to be on-call and immediately responsive twenty-four (24)
21 hours per day, three hundred and sixty-five (365) days per year. Despite the “independent
22 contractor” classification, CAPITAL mandates that its ICs: purchase CAPITAL uniforms; don
23 CAPITAL uniforms when at a client’s site; purchase and use specific supplies and chemicals
24 from CAPITAL; receive payment via direct deposit only, and pay any and all related fees for
25 the service; follow CAPITAL’s strict instructions as to the number of hours spent cleaning
26 each client’s location; report the number of hours spent cleaning each client’s location (via a
27 clock-in/clock-out system which is directly connected to CAPITAL’s headquarter office) and
28 face disciplinary action, including a reduced work schedule, for failure to spend the number of

1 hours set by CAPITAL cleaning each client's location; and obey CAPITAL's ultimate
2 supervision as to the quality and completion of any given cleaning job. Plaintiffs are informed
3 and believe, and thereon allege, that CAPITAL paid, and continues to pay, its ICs at an hourly
4 rate based on the number of hours ICs/JWs spend cleaning each location as reported via
5 CAPITAL's clock-in/clock-out system (IVR system), which CAPITAL monitors on a regular
6 basis. Furthermore, CAPITAL holds ultimate control over all employment decisions with
7 respect to the workers hired and fired by the ICs.

8 5. JWs are hired by and follow direct orders from CAPITAL, through ICs who, as
9 detailed above, are employees of CAPITAL, though misclassified as "independent
10 contractors." CAPITAL uniformly mandates that all JWs don a CAPITAL uniform; spend the
11 majority, if not all, of their time (between 90%-100%) performing labor-oriented, non-
12 administrative, and non-managerial tasks; and report the hours they work directly to CAPITAL
13 via a clock-in/clock-out system. If the hours reported do not match the number of hours
14 CAPITAL requires JWs to spend at each location, CAPITAL will reduce the work schedule of
15 the JW. JWs were, and continue to be, paid at an hourly rate and should be properly classified
16 as non-exempt hourly employees of CAPITAL.

17 6. The independent contractor arrangement is a sham, used knowingly and
18 deliberately by CAPITAL to evade their legal responsibilities to the ICs and JWs. Specifically,
19 CAPITAL's systematic practice of misclassifying its employees as independent contractors,
20 when in fact they are non-exempt employees, results in CAPITAL failing to pay wages owed
21 when due, failing to indemnify employees for expenses incurred, failing to make proper
22 deductions and provide required wage statements, failing to pay overtime wages, failing to
23 authorize and permit rest breaks, and failing to relieve the ICs and JWs for uninterrupted 30-
24 minute meal periods(s).

25 7. Plaintiffs now bring this lawsuit on behalf of themselves and other similarly
26 situated current and/or former employees of CAPITAL for injunctive relief, declaratory relief,
27 enforcement, and monetary relief. Plaintiffs seek to recover, *inter alia*, unpaid wages and
28 benefits, losses/expenses, damages, interest, attorney's fees, penalties, and costs – including

1 without limitation those permitted under the Labor Code, the IWC Wage Orders, the Business
2 and Professions Code, and the Civil Code. Plaintiffs further seek to recover monetary damages
3 for CAPITAL's violations of Business and Professions Code § 17200, et. seq., including full
4 restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits
5 retained by CAPITAL as a result of its unfair, unlawful, and fraudulent business practices.

6 **II. JURISDICTION AND VENUE**

7 8. This court has jurisdiction over this action and CAPITAL pursuant to Code of
8 Civil Procedure § 410.10. This is a civil action wherein the matter in controversy, exclusive of
9 interest and costs, exceeds the jurisdictional minimum of the Court. CAPITAL presently and
10 at all times relevant to this action has conducted substantial, systematic and continuous
11 commercial activities in California.

12 9. Venue is proper in this judicial district pursuant to Code of Civil Procedure
13 §§ 395(a) and 395.5 as at least some of the acts and omissions complained of in this action
14 occurred in the County of San Mateo in the State of California. CAPITAL either owns,
15 maintains offices, transacts business, has an agent or agents within the County of San Mateo or
16 otherwise is found within the County of San Mateo, and each of the defendants is within the
17 jurisdiction of this Court for purposes of service of process.

18 **III. THE PARTIES**

19 **A. Defendants**

20 10. Defendant CAPITAL is a New York corporation duly authorized to do business
21 throughout the State of California. CAPITAL is an "employer" as defined and regulated by the
22 Labor Code, the IWC Wage Order, and California common law.

23 11. The true names, capacities, relationships and extent of participation in the
24 conduct alleged herein of the defendants named as DOES 1 through 30, inclusive, are presently
25 unknown to Plaintiffs, but Plaintiffs are informed and believe, and thereon allege, that said
26 defendants are legally responsible for the wrongful conduct alleged herein and therefore sue
27 these defendants by such fictitious names. Plaintiffs will amend this complaint when their true
28 names and capabilities are ascertained.

1 12. Plaintiffs are informed and believe, and thereon allege, that each defendant –
2 whether named or fictitious, directly or indirectly, or through agents or other persons –
3 engaged Plaintiffs and their fellow CAPITAL employees and exercised control over their
4 wages, hours, and/or working conditions. Plaintiffs are informed and believe, and thereon
5 allege, that each defendant acted and/or ratified in all respects pertinent to this action as the
6 agent of the other defendants; Plaintiffs are informed and believe, and thereon allege, that each
7 defendant carried out a joint scheme, business plan or policy in all respects pertinent hereto,
8 and the acts of each defendant are legally attributable to the other defendants.

9 **B. Plaintiffs**

10 13. Plaintiff LILIANA SANCHEZ (hereinafter referred as “SANCHEZ”) worked
11 for CAPITAL as an IC from on or about November 2006 until on or about April 2013 in
12 various counties in California – on CAPITAL’s behalf and in conformance with CAPITAL’s
13 specific directives and instructions. SANCHEZ was paid on an hourly basis based on the
14 number of hours JWs worked at each location which were pre-authorized by CAPITAL to be
15 spent cleaning each location, and from this amount had to pay the wages of each of her JWs,
16 all business expenses, as well as her own wages. SANCHEZ should have been properly
17 classified as a non-exempt employee of CAPITAL.

18 14. Plaintiff YOLANDA CAMEY (hereinafter referred as “CAMEY”) worked for
19 CAPITAL as an IC from on or about 1999 until on or about March 2013 – on CAPITAL’s
20 behalf and in conformance with CAPITAL’s specific directives and instructions. CAMEY was
21 paid on an hourly basis based on the number of hours JWs worked at each location which were
22 pre-authorized by CAPITAL to be spent cleaning each location, and from this amount had to
23 pay the wages of each of her JWs, all business expenses, as well as her own wages. CAMEY
24 should have been properly classified as a non-exempt hourly employee of CAPITAL.

25 15. Plaintiff JUAN CARLOS RAMIREZ (hereinafter referred as “RAMIREZ”) worked
26 for CAPITAL as an IC from on or about 2007 until on or about February of 2013 in
27 various counties in California – on CAPITAL’s behalf and in conformance with CAPITAL’s
28 specific directives and instructions. RAMIREZ was paid on an hourly basis based on the

1 number of hours JWs worked at each location which were pre-authorized by CAPITAL to be
2 spent cleaning each location, and from this amount had to pay the wages of each of her JWs,
3 all business expenses, as well as her own wages. RAMIREZ should have been properly
4 classified as a non-exempt employee of CAPITAL.

5 16. Plaintiff JOSE ANTONIO HERNANDEZ (hereinafter referred as "JOSE
6 HERNANDEZ") worked as a JW from on or about December 2009 until on or about March
7 2013 in various counties in California – on CAPITAL's behalf and in conformance with
8 CAPITAL's specific directives and instructions. JOSE HERNANDEZ was paid on an hourly
9 basis for his work as a JW on behalf of CAPITAL. He should have been properly classified as
10 a non-exempt employee of CAPITAL.

11 17. Plaintiff JUAN CARLOS HERNANDEZ (hereinafter referred as "JUAN
12 HERNANDEZ") worked as a JW from on or about December 2010 until on or about
13 November 2012 in various counties in California – on CAPITAL's behalf and in conformance
14 with CAPITAL's specific directives and instructions. JUAN HERNANDEZ was paid on an
15 hourly basis for his work as a JW on behalf of CAPITAL. He should have been properly
16 classified as a non-exempt employee of CAPITAL.

17 18. Plaintiff JOSE ALFARO (hereinafter referred as "ALFARO") worked as a JW
18 from on or about March 2007 until on or about February 2013 in various counties in California
19 – on CAPITAL's behalf and in conformance with CAPITAL's specific directives and
20 instructions. ALFARO was paid on any hourly basis for his work as a JW on behalf of
21 CAPITAL. He should have been properly classified as a non-exempt employee of CAPITAL.

22 19. Plaintiff IRMA GONZALEZ AGUILAR (hereinafter referred as "AGUILAR")
23 worked as a JW from on or about 2009 until on or about February 2013 in various counties in
24 California – on CAPITAL's behalf and in conformance with CAPITAL's specific directives
25 and instructions. AGUILAR was paid on a salary (i.e. flat-rate) basis for her performance of
26 JW services on behalf of CAPITAL. She should have been properly classified as a non-
27 exempt employee of CAPITAL.
28

1 20. Plaintiff LUCINA GALINDO (hereinafter referred as "GALINDO") worked for
2 CAPITAL as a JW from on or about March 2007 until on or about April of 2013 in various
3 counties in California – on CAPITAL's behalf and in conformance with CAPITAL's specific
4 directives and instructions. GALINDO was paid on an hourly basis for her work as a JW on
5 behalf of CAPITAL. She should have been properly classified as a non-exempt employee of
6 CAPITAL.

7 **IV. FACTUAL ALLEGATIONS**

8 21. Plaintiffs are informed and believe and thereupon allege that Defendant
9 CAPITAL provides cleaning services to major industrial clients throughout California, such as
10 hospitals, office buildings, retail stores, and health clubs. CAPITAL is available to its clients
11 twenty-four (24) hours per day, three hundred and sixty-five (365) days per year.

12 22. Plaintiffs are informed and believe and thereupon allege that at all times
13 relevant herein, CAPITAL employed Plaintiffs and class members – hundreds of ICs and
14 thousands of JWs – and relied on them to provide cleaning services for its clients throughout
15 California. CAPITAL misclassified each and every IC as an independent contractor, when, in
16 fact, they were employees of CAPITAL. In turn, the ICs employed JWs to carry out
17 CAPITAL's tasks. CAPITAL sets strict standards, policies, and procedures, which it applies
18 uniformly and requires and expects the ICs and JWs to carefully follow. CAPITAL routinely
19 monitors the details of the work of its ICs and JWs to ensure strict adherence to CAPITAL's
20 standards, policies, and procedures.

21 23. Plaintiffs are informed and believe and thereupon allege that at all times
22 relevant herein, CAPITAL directly and/or indirectly paid Plaintiffs SANCHEZ, CAMEY,
23 RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
24 GALINDO and other California-based ICs and JWs, which are defined in ¶ 60, *supra*, as
25 putative Class I, II, III members, less than minimum wage for the work that the performed for
26 CAPITAL. CAPITAL failed to satisfy minimum wage requirements and secretly paid a lower
27 wage, while purporting to pay the wage designated by statute or by contract, when it failed to
28 pay the named Plaintiffs and Class members for the required minimum wage for "all hours

1 worked” in performing work which was incidental to cleaning services and their employment
2 (e.g. attending meetings, scheduling employees, travelling between job sites, etc.) and
3 consequently underpaid its ICs and JWs for the actual hours each worked. CAPITAL also
4 failed to compensate ICs and JWs for all overtime hours worked, failed to establish a meal and
5 rest break policy that complies with the law, maintained practices and procedures that impeded
6 the ICs and JWs right to take meal and rest breaks, failed to provide itemized wage statements,
7 and failed to indemnify ICs and JWs for all business expenses incurred. CAPITAL’s practices,
8 policies and procedures, or lack therefore, violated California and Federal law, and were
9 uniformly applied at the direction of CAPITAL to the detriment of all Class members.

10 **A. Allegations Regarding Independent Contractors (“ICs”)**

11 24. Labor Code § 3353 defines an “independent contractor” as a “person who
12 renders service for a specified recompense for a specified result, under the control of his
13 principal *as to the result of his work only* and not as to the means by which such result is
14 accomplished.” (Emphasis added.)

15 25. The applicable Wage Order defines “employer” as any person “who directly or
16 indirectly, or through an agent, for any other person, employs or *exercises control* over the
17 wages, hours, or working conditions of any person.” (Emphasis added.)

18 26. CAPITAL misclassified plaintiffs SANCHEZ, CAMEY, and RAMIREZ as
19 “independent contractors” during the entirety of their respective engagements with CAPITAL.
20 CAPITAL even required Plaintiffs SANCHEZ, CAMEY, and RAMIREZ – along with its
21 other ICs – to sign agreements stating that they are “independent contractors” and not
22 employees.

23 27. However, Plaintiffs are informed and believe and thereupon allege that at all
24 times relevant herein, CAPITAL exercised strict control over the details of the work that it
25 directed ICs to perform and supervised and controlled the means and manner by which the ICs
26 carried out their tasks. CAPITAL also held ultimate control over the details of all employment
27 decisions with respect to the crews of JWs employed through and supervised by ICs.

1 SANCHEZ, CAMEY, and RAMIREZ, and other ICs, each consistently performed the work of
2 true "employees" during the entirety of their respective engagements with CAPITAL.

3 28. Plaintiffs are informed and believe and thereupon allege that at all times
4 relevant herein, CAPITAL, among other things, required SANCHEZ, CAMEY, and
5 RAMIREZ and other ICs to: a) remain on-call twenty-four (24) hours per day, three hundred
6 and sixty-five (365) days per year; b) don, purchase from CAPITAL, and enforce the donning
7 and purchasing of, CAPITAL uniforms (a shirt with CAPITAL logo); c) purchase from
8 CAPITAL and use specific supplies and chemicals for cleaning the facilities, as dictated by
9 CAPITAL; d) receive their wages from CAPITAL via direct deposit only, a service for which
10 they were charged; e) follow CAPITAL's strict instructions as to the locations of work and the
11 number of hours to be spent cleaning each location; f) clock-in/clock-out at each location using
12 CAPITAL's IVR computer system; and g) obey CAPITAL's ultimate supervision as to the
13 details, manner, and quality of any given cleaning job.

14 29. Plaintiffs are informed and believe and thereupon allege that CAPITAL keeps
15 track of the number of hours that are spent cleaning each location through a clock-in/clock-out
16 IVR computer system, which is directly connected to CAPITAL's headquarter office and
17 monitored by CAPITAL on a daily basis. CAPITAL controls the number of hours ICs spend
18 cleaning each location by preparing the schedules, shifts, and specifically dictating the number
19 of hours to be spent cleaning each location. Likewise, if the number of hours in any given
20 shift/day/week transmitted to CAPITAL via CAPITAL's IVR system does not conform to the
21 hours pre-approved by CAPITAL, then ICs, and ultimately JWs will face negative
22 consequences and punishment by way of, among other things, deductions from their wages.

23 30. Plaintiffs are informed and believe and thereupon allege that at all times
24 relevant herein, CAPITAL disciplined and terminated Plaintiffs SANCHEZ, CAMEY, and
25 RAMIREZ and other ICs.

26 31. Plaintiffs are informed and believe and thereupon allege that at all times
27 relevant herein, CAPITAL exercised that same dominion and control over every IC that
28 CAPITAL employed.

1 32. The services Plaintiffs SANCHEZ, CAMEY, and RAMIREZ and other ICs
2 performed are a regular and integral part of CAPITAL's business.

3 33. Plaintiffs are informed and believe and thereupon allege that Defendant
4 CAPITAL deliberately misclassified SANCHEZ, CAMEY and RAMIREZ as "independent
5 contractors" – instead of employees – in order to gain an unfair workforce advantage.
6 CAPITAL knew or should have known that such classifications clearly violate the Labor Code
7 and IWC Wage Orders and run afoul of public policy. Furthermore, CAPITAL included terms
8 in its agreements with Plaintiffs SANCHEZ, CAMEY and RAMIREZ that it knew or should
9 have known were prohibited by law.

10 34. As with Plaintiffs SANCHEZ, CAMEY and RAMIREZ, Plaintiffs are informed
11 and believe and thereupon allege that CAPITAL exercised a uniform policy and practice of
12 misclassifying all California-based ICs for the purpose of gaining an unfair workforce
13 advantage.

14 35. CAPITAL's uniform policies and practices and strict control over its ICs
15 required the ICs to regularly work overtime. At all times relevant herein, Plaintiffs
16 SANCHEZ, CAMEY and RAMIREZ and other ICs each worked more than eight (8) hours
17 during a single day for CAPITAL and more than forty hours (40) during a single week for
18 CAPITAL. CAPITAL failed to pay the ICs at any overtime rate of pay in connection with
19 work they performed on behalf of CAPITAL, even though CAPITAL had the ability to
20 monitor and did monitor the hours worked by all ICs, and, therefore, knew or should have
21 known that overtime hours were being worked and these hours were going uncompensated.

22 36. Plaintiffs SANCHEZ, CAMEY and RAMIREZ and other ICs each travelled
23 between job sites on behalf of CAPITAL. CAPITAL also failed to compensate ICs for travel
24 time or other time considered by CAPITAL to be "off-the-clock." Thus, the ICs did not
25 receive minimum wage for all hours worked, in accordance with the law, when they travelled
26 between job sites or performed other "off-the-clock" work.

27 37. At all times relevant herein, Plaintiffs SANCHEZ, CAMEY and RAMIREZ and
28 other ICs regularly worked sufficient hours to require that they be provided with rest breaks.

1 However, CAPITAL lacked a policy requiring that ICs be authorized or permitted the amount
2 of rest break time required by law. Rather, CAPITAL's uniformly applied practice impeded
3 the ICs right to take rest breaks. As such, Plaintiffs SANCHEZ, CAMEY and RAMIREZ and
4 other ICs were not authorized or permitted the amount of rest break time required by law and
5 missed such breaks.

6 38. At all times relevant herein, Plaintiffs SANCHEZ, CAMEY and RAMIREZ and
7 other ICs regularly worked sufficient hours to require that they be provided with meal breaks.
8 However, CAPITAL lacked a policy requiring that ICs be relieved of all duty for an
9 uninterrupted 30-minute meal period. Rather, CAPITAL's uniformly applied practice impeded
10 the ICs right to take meal breaks. As such, Plaintiffs SANCHEZ, CAMEY and RAMIREZ and
11 other ICs regularly were not relieved of duty for an uninterrupted 30-minute period.

12 39. CAPITAL also failed to indemnify ICs for necessary expenditures incurred in
13 performing work for CAPITAL, including but not limited to mandatory CAPITAL uniforms,
14 CAPITAL-required supplies and materials, mandatorily-incurred direct deposit fees, and tax-
15 related expenses resulting from the "independent contractor" classification. Furthermore,
16 CAPITAL regularly deducted and withheld sums of money from ICs' wages, for expenses that
17 CAPITAL mandated ICs incur, including but not limited to CAPITAL uniforms, CAPITAL-
18 required supplies and cleaning materials, and direct deposit fees. In addition, the ICs were
19 forced to incur tax-related expenses and CAPITAL failed to pay all withholdings and employer
20 taxes as a result of the "independent contractor" misclassification.

21 40. At all times relevant herein, flowing from its failures with respect to the
22 misclassification, compensation, and reimbursement of ICs, as alleged above, CAPITAL has
23 regularly failed to timely issue complete and accurate wage statements to the ICs, including
24 Plaintiffs SANCHEZ, CAMEY and RAMIREZ. Likewise, CAPITAL has consistently failed
25 to timely remit final payment in full to ICs who no longer work with CAPITAL, including
26 Plaintiffs SANCHEZ, CAMEY and RAMIREZ.

27 41. CAPITAL's conduct, as alleged herein, has caused Plaintiffs SANCHEZ,
28 CAMEY and RAMIREZ and other ICs to suffer damages including, but not limited to, loss of

1 wages and compensation. CAPITAL is liable to Plaintiffs SANCHEZ, CAMEY and
2 RAMIREZ and other ICs for failing to pay overtime wages, failing to relieve ICs of their duties
3 for uninterrupted 30-minute period(s), failing to authorize and permit rest breaks, failing to pay
4 all wages owed on each pay period, failing to provide timely and accurate wage statements,
5 failing to pay all wages owed upon termination, failing to indemnify them for expenses
6 CAPITAL mandated that they incur, tax related expenses resulting from the "independent
7 contractor" classification, and unlawful deduction and withholding of money from ICs' wages
8 for incurred expenses and unfair competition.

9 42. Plaintiffs SANCHEZ, CAMEY and RAMIREZ (hereinafter collectively
10 referred to as "IC Class Representatives") are members of and seek to be the representatives
11 for the Class of similarly situated ICs who all have been exposed to, have suffered, and/or were
12 permitted to work under, CAPITAL's unlawful employment practices as alleged herein.

13 **B. Allegations Relating to Janitorial Workers ("JWs")**

14 43. The applicable Wage Order defines "employer" as any person "who directly or
15 indirectly, or through an agent, for any other person, employs or exercises control over the
16 wages, hours, or working conditions of any person."

17 44. At all times relevant herein, CAPITAL was either the employer or the joint
18 employer of the JWs in that CAPITAL exercised control over the wages, hours, and working
19 conditions of each of the JWs.

20 45. At all times relevant herein, CAPITAL has held ultimate control over the
21 manner and details of the cleaning jobs performed by JWs at each location directly and/or
22 indirectly by and through its ICs. At all times relevant herein, CAPITAL has dictated which
23 JW must be terminated, the number of JWs to perform each job and the total number of hours
24 each JW is allowed to work on a given cleaning job. One of CAPITAL's employees (i.e. not
25 an IC) will often visit the job sites to review the JWs work, and may declare certain JWs or
26 aspects of the job unsatisfactory. A JW found performing an unsatisfactory job will face
27 consequences including termination of his/her employment. At all times relevant herein,
28 CAPITAL typically remits payment to the IC for disbursement to JWs. Nonetheless, when

1 CAPITAL dismisses an IC – or when an IC is otherwise unable to remit payment – CAPITAL
2 remits payment directly to its JWs for all wages due and payable to date, to the extent payment
3 is made.

4 46. At all times relevant herein, CAPITAL has maintained control over the JWs'
5 work, approving the number of hours JWs spend cleaning each location by means of preparing
6 the shift schedules and by dictating the number of hours to be spent cleaning each location.
7 When a JW commences cleaning at a CAPITAL client's location, s/he is required by
8 CAPITAL to clock-into CAPITAL's IVR computer system which transmits the arrival data
9 directly to CAPITAL. When a JW concludes cleaning at a CAPITAL client's location, s/he is
10 required to clock-out of CAPITAL's IVR system which transmits the departure data directly to
11 CAPITAL. This clock-in/clock-out IVR system enables CAPITAL to monitor which JW
12 worked when, the JWs' hours, whether the JW should have received a meal or rest break, and
13 whether the JW worked overtime.

14 47. If the number of hours in any given shift/day/week transmitted to CAPITAL via
15 CAPITAL's IVR system do not comport with the hours pre-approved by CAPITAL, then ICs
16 and ultimately JWs face negative consequences and punishment, specifically in the form of
17 reduced hours.

18 48. The services Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
19 AGUILAR, and GALINDO and other JWs performed are a regular and integral part of
20 CAPITAL's business.

21 49. At all times relevant herein, CAPITAL required Plaintiffs JOSE HERNANDEZ,
22 JUAN HERNANDEZ, ALFARO, AGUILAR, GALINDO and other JWs to clock-in/clock-out
23 of CAPITAL's IVR computer system; answer to the CAPITAL supervisors (both ICs and other
24 agents/employees of CAPITAL); wear a CAPITAL uniform; and spend the bulk of their time
25 performing labor-oriented, non-administrative, and non-managerial tasks in connection with
26 work performed on behalf of CAPITAL.

27 50. CAPITAL's uniform practices and treatment of its ICs, and, therefore, its JWs,
28 required the JWs to regularly work overtime. At all times relevant herein, Plaintiffs JOSE

1 HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JW's,
2 regularly worked more than eight (8) hours in a single day and/or more than forty (40) hours in
3 a single week on behalf of CAPITAL. However, they never received compensation at any
4 overtime rate of pay in connection with work they performed on behalf of CAPITAL, even
5 though CAPITAL had the ability to monitor and did monitor the hours worked by all JW's, and,
6 therefore, knew or should have known that overtime hours were being worked and these hours
7 were going uncompensated.

8 51. At all times relevant herein, Plaintiffs JOSE HERNANDEZ, JUAN
9 HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JW's regularly worked
10 sufficient hours to require that they be provided with rest breaks. However, CAPITAL lacked
11 a policy requiring that JW's be authorized or permitted the amount of rest break time required
12 by law. Rather, CAPITAL's uniformly applied practice impeded the JW's right to take rest
13 breaks. As such, Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
14 AGUILAR, and GALINDO and other JW's were not authorized or permitted the amount of rest
15 break time required by law and missed such breaks.

16 52. At all times relevant herein, Plaintiffs JOSE HERNANDEZ, JUAN
17 HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JW's regularly worked
18 sufficient hours to require that they be provided with meal breaks. However, CAPITAL lacked
19 a policy requiring that JW's be relieved of all duty for an uninterrupted 30-minute meal period.
20 Rather, CAPITAL's uniformly applied practice impeded the JW's right to take meal breaks. As
21 such, Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR, and
22 GALINDO and other JW's regularly were not relieved of duty for an uninterrupted 30-minute
23 period.

24 53. At all times relevant herein, Plaintiffs JOSE HERNANDEZ, JUAN
25 HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JW's did not receive
26 compensation for all hours worked and time spent travelling between job sites on behalf of
27 CAPITAL. Thus, Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
28 AGUILAR, and GALINDO and other JW's did not receive minimum wage for all hours

1 worked, in accordance with the law, when they travelled between job sites or performed other
2 "off-the-clock" work.

3 54. At all times relevant herein, Plaintiffs JOSE HERNANDEZ, JUAN
4 HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JWs, were required to bear
5 the expense of their CAPITAL uniforms (a shirt with CAPITAL logo), which they are required
6 by CAPITAL to don at all times while performing JW labor. The named Plaintiffs and other
7 JWs were also required by CAPITAL to maintain and launder the uniforms. CAPITAL did not
8 indemnify its JWs in connection with these necessary expenditures.

9 55. At all times relevant herein, Plaintiffs JOSE HERNANDEZ, JUAN
10 HERNANDEZ, ALFARO, AGUILAR, and GALINDO and other JWs were required to bear
11 the expense of travelling between CAPITAL's clients' locations. This travel is mandated by
12 CAPITAL, which often requires specific JWs to clean specific locations. CAPITAL did not
13 indemnify its JWs in connection with this necessary expenditure.

14 56. At all times relevant herein, flowing from its failures with respect to the
15 compensation and indemnification of JWs, as alleged above, CAPITAL has regularly failed to
16 timely issue complete and accurate wage statements to the JWs, including without limitation
17 Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR, and
18 GALINDO. Likewise, CAPITAL has consistently failed to timely remit final payments in full
19 to JWs who no longer work with CAPITAL, including without limitation Plaintiffs RAMIREZ,
20 JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR, and GALINDO.

21 57. CAPITAL has consistently failed to fully compensate and indemnify the
22 expenses of the JWs – including without limitation Plaintiffs JOSE HERNANDEZ, JUAN
23 HERNANDEZ, ALFARO, AGUILAR, and GALINDO – in order to gain an unfair workforce
24 advantage. CAPITAL knew or should have known that such policies and practices clearly
25 violate the Labor Code and IWC Wage Orders and run adverse to public policy. Furthermore,
26 CAPITAL included terms in its agreements with its ICs that had adverse effects on JWs that
27 CAPITAL should have known were prohibited by law.

1 58. Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR,
2 and GALINDO (hereinafter collectively refer to as "JW Class Representatives") are members
3 of and seek to be the representatives for the Class of similarly situated JW employees who all
4 have been exposed to, have suffered, and/or were permitted to work under, CAPITAL's
5 unlawful employment practices as alleged herein.

6 **V. CLASS PERIOD**

7 59. The Class Period in this case covers the time period beginning four (4) years
8 prior to the filing of this Complaint and continuing through to the present, with an ongoing
9 ending, on a date to be determined by the Court.

10 **VI. CLASS DEFINITION**

11 60. Plaintiffs bring this action, on behalf of themselves and all others similarly
12 situated, as a class action pursuant to Code of Civil Procedure § 382. The classes which
13 Plaintiffs seek to represent are composed and defined as follows:

- 14 • **Class I (California-based ICs, represented by SANCHEZ, CAMAY, and**
15 **RAMIREZ):** All persons who have been (a) employed by CAPITAL in the
16 State of California, and (b) misclassified as an "independent contractor" by
17 CAPITAL to perform cleaning services at CAPITAL's clients' properties, on
18 behalf of CAPITAL.
- 19 • **Class II (California-based, hourly-rate JWs, represented by JOSE**
20 **HERNANDEZ, JUAN HERNANDEZ, ALFARO, and GALINDO):** All
21 persons who have (a) performed the labor of cleaning CAPITAL's clients'
22 properties, on behalf of CAPITAL, in the State of California (b) received an
23 hourly rate of pay in connection with performing the labor of cleaning
24 CAPITAL's clients' properties, on behalf of CAPITAL.
- 25 • **Class III (California-based, flat-rate JWs, represented by AGUILAR):** All
26 persons who have (a) performed the labor of cleaning CAPITAL'S clients'
27 properties, on behalf of CAPITAL, in the State of California (b) received a flat
28

1 rate of pay in connection with performing the labor of cleaning CAPITAL's
2 clients' properties, on behalf of CAPITAL.

3 Plaintiffs may amend the foregoing class definitions as permitted or required by this
4 Court.

5 **VII. CLASS ALLEGATIONS**

6 61. Plaintiffs have brought this action – and may properly maintain it – as a class
7 action under Code of Civil Procedure § 382; this matter satisfies all prerequisites for class
8 treatment.

9 **A. Numerosity & Ascertainability**

10 62. While the precise number of members for each class has not yet been
11 determined, Plaintiffs are informed and believe that each of the three proposed classes includes
12 hundreds of individuals and that membership in Classes II and III could number into the
13 thousands.

14 63. The members of each of proposed class are so numerous that joinder of all the
15 members for each class would prove impracticable. Any attempt at joinder would result in
16 great inefficiency, namely hundreds or even thousands of duplicative trials.

17 64. Plaintiffs are informed and believe, and thereupon allege, that CAPITAL and
18 the ICs possess, control, and/or have custody of documents and information that will enable
19 Plaintiffs to efficiently ascertain the location, number, and identity of the members of the
20 Class. Among other discoverable items, CAPITAL should possess, control, or have custody of
21 (a) signed agreements, for each of the members of Class I, confirming their respective
22 “independent contractor” misclassifications; (b) documentation and/or data for each of the
23 members of Classes II and III, reflecting the number of hours worked on any given day; and (c)
24 records reflecting payments from CAPITAL to the proposed members of Classes I, II and III
25 for services rendered, including without limitation payment from CAPITAL to the proposed
26 members of Class I for disbursement to the proposed members of Classes II and III.

1 **B. Commonality**

2 65. For each of the proposed classes, common questions of law and fact
3 predominate over any individualized questions concerning specific class members.

4 66. The members of Class I commonly face predominant questions of fact
5 regarding, *inter alia*: CAPITAL's policies and practices concerning the designation of ICs as
6 "independent contractors"; the nature and extent of CAPITAL's supervision and control over
7 ICs; CAPITAL's expectations and responsibilities as placed upon the ICs; CAPITAL's
8 representations to the ICs concerning the ICs legal rights and proper classification;
9 CAPITAL's awareness and intention in classifying ICs as "independent contractors," as
10 opposed to "employees"; CAPITAL's policies and practices regarding indemnifying IC's
11 expenses relating to uniforms, cleaning supplies, and direct deposit fees; and the nature,
12 substance, and/or existence of CAPITAL's wage statements.

13 67. The members of Class I commonly face predominant questions of law
14 regarding, *inter alia*: whether CAPITAL properly classified its ICs as independent contractors;
15 and whether CAPITAL's treatment of its ICs violates a Industrial Welfare Commission Wage
16 Orders, the Labor Code, the Civil Code, and/or the Business & Professions Code.

17 68. The members of Class I also commonly face predominant questions of law
18 regarding, *inter alia*: CAPITAL's policies and practices regarding overtime compensation to
19 the ICs; CAPITAL's lack of policies and procedures affirmatively authorizing and permitting
20 meal and rest breaks; CAPITAL's policies and practices regarding travel time compensation to
21 the ICs; CAPITAL's policies and practices regarding ICs clocking-in and clocking-out; and
22 CAPITAL's policies and practices regarding charging for uniforms, failing to pay them for
23 mileage between CAPITAL's clients' properties; and the nature, substance, and/or existence of
24 CAPITAL'S wage statements.

25 69. The members of Classes II and III commonly face predominant questions of
26 fact regarding, *inter alia*: CAPITAL's policies and practices on providing funds to the ICs for
27 disbursement to the JWs; CAPITAL's policies and practices regarding overtime compensation
28 to the JWs; CAPITAL's lack of policies and procedures affirmatively authorizing and

1 permitting meal and rest breaks; CAPITAL's policies and practices regarding travel time
2 compensation to the JWs; the nature and extent of CAPITAL's supervision and control over
3 JWs; CAPITAL's expectations and responsibilities as placed upon the JWs; CAPITAL's
4 policies and practices regarding JWs clocking-in and clocking-out; and CAPITAL's policies
5 and practices regarding charging for uniforms, failing to pay them for mileage between
6 CAPITAL's clients' properties; and the nature, substance, and/or existence of CAPITAL'S
7 wage statements.

8 70. The members of Classes II and III commonly face predominant questions of law
9 regarding, *inter alia*: whether CAPITAL should have classified its JWs as "employees"; the
10 nature of the relationship between CAPITAL'S ICs and its JWs; and whether CAPITAL's
11 treatment of its JWs violates an Industrial Welfare Commission Wage Order, the Labor Code,
12 the Business & Professions Code and/or common law.

13 C. Typicality

14 71. Each lead plaintiff presents claims that are typical of the proposed class
15 members whom said plaintiff represents.

16 72. Plaintiffs SANCHEZ, CAMAY, and RAMIREZ were ICs during the Class
17 Period who oversaw the JWs cleaning CAPITAL's clients' properties – and who sustained
18 injuries and damages arising out of and relating to CAPITAL's common course of conduct,
19 with respect to its ICs, in violation of the California laws, statutes, and regulations herein
20 alleged.

21 73. Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, and
22 GALINDO were JWs during the Class Period who were paid on an hourly basis for performing
23 janitorial services on behalf of CAPITAL, under CAPITAL'S specific supervision and
24 direction – and who sustained injuries and damages arising out of and relating to CAPITAL'S
25 common course of conduct, with respect to its JWs, in violation of the California laws, statutes,
26 and regulations herein alleged.

27 74. Plaintiff AGUILAR was a JW during the Class Period who was paid on a salary
28 (i.e. flat-rate) basis for performing janitorial services on behalf of CAPITAL, under

1 CAPITAL'S specific supervision and direction – and who sustained injuries and damages
2 arising out of and relating to CAPITAL'S common course of conduct, with respect to its JWs,
3 in violation of the California laws, statutes, and regulations herein alleged.

4 **D. Adequacy of Representation**

5 75. Each lead plaintiff intends to meaningfully participate in this case and zealously
6 represent and protect the interests of a proposed class. No lead plaintiff holds an interest which
7 is antagonistic or otherwise divergent from the interests of his or her proposed class.

8 76. Plaintiffs have retained the representation of competent, well-qualified attorneys
9 on behalf of themselves and the members of the proposed classes. Plaintiffs' attorneys have
10 substantial experience with litigating employment actions on a class basis.

11 **E. Superiority of Class Action**

12 77. A class action is superior to other available means for the fair and efficient
13 adjudication of this controversy. Individual joinder of proposed class members is not
14 practicable, and questions of law and fact common to each class predominate over any
15 questions affecting only individual members of class. Each proposed class member has been
16 damaged and is entitled to recovery after being subject to unlawful and unfair policies and/or
17 practices which were pervasively perpetrated by CAPITAL against all ICs (Class I) and JWs
18 (Classes II and III).

19 78. No other litigation concerning this controversy has been commenced by or
20 against Class Members, or is pending.

21 79. Class action treatment will allow those similarly situated persons to litigate their
22 claims in the manner that is most efficient and economical for the parties and the judicial
23 system. It is unlikely that any individual proposed class member wishes to individually control
24 a separate action in connection with this matter.

25 80. As individuals who work in janitorial services, the proposed class members
26 generally lack knowledge of the legal system, intellectual sophistication, and substantial
27 economic resources. As a result, most class members would be deprived of the practical
28

1 opportunity to pursue their respective individual claims if this matter is not certified as a class
2 action.

3 81. Plaintiffs are unaware of any difficulties likely to be encountered in the
4 management of this case that would preclude its maintenance as a class action. The benefits of
5 maintaining this action on a class basis far outweigh any administrative burden in managing
6 the class action. Conducting this case as a class action would prove far less burdensome than
7 prosecuting individual actions – especially given the strong core of common factual and legal
8 questions.

9 **VIII. EXHAUSTION OF NOTICE REQUIREMENT AND DESIGNATION UNDER**
10 **LABOR CODE § 2698, ET SEQ., PRIVATE ATTORNEY GENERAL ACT**
11 **(“PAGA”)**

12 82. The Causes of Actions alleged here in are appropriately suited for a Labor Code
13 Private Attorneys General Act of 2004 (hereinafter referred to as “PAGA”) representative
14 action on behalf of other ICs (Class I) and JWs (Classes II and III) during the statutory PAGA
15 period.

16 83. This action involves allegations of violations of provisions of the Labor Code
17 that either do not provide for a civil penalty or provide for a civil penalty to be assessed and
18 collected by the Labor and Workforce Development Agency (hereinafter referred to as
19 “LWDA”) or any departments, divisions, commissions, boards, agencies or employees.

20 84. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
21 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
22 GALINDO are “aggrieved employees” because they were employed by the alleged violator
23 and had one or more of the alleged violations committed against them, and therefore are
24 properly suited to represent the interests of the IC and JW class members.

25 85. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
26 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR,
27 and GALINDO seek to recover all applicable penalties under PAGA on behalf of themselves
28 and all other aggrieved ICs and JWs employees.

1 86. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
2 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR,
3 and GALINDO have exhausted the notice requirement and complied with Labor Code §
4 2699.3(c) by providing notice to CAPITAL and the LWDA of their claims by registered U.S.
5 Mail on January 21, 2014. A true and correct copy is attached hereto as Exhibit I.

6 87. CAPITAL has not cured the alleged violations within thirty-three (33) days of
7 the postmark date of Plaintiffs' letter and has not provided any written notice to Plaintiffs
8 stating that the alleged violations were cured and a description of the actions taken. Further,
9 the LWDA did not notify Plaintiffs and CAPITAL of its intention to investigate within thirty-
10 three (33) days of Plaintiffs' letter. Accordingly, Plaintiffs have exhausted the procedural
11 requirements under the PAGA to pursue the penalty claims pursuant to Section 2699.

12 88. Pursuant to Labor Code § 2699(i), Plaintiffs SANCHEZ, CAMEY, RAMIREZ,
13 JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR, and GALINDO and
14 other California-based ICs and JWs putative Class I, II, III members, as aggrieved employees,
15 are entitled to keep 25% of the civil penalties recovered in the PAGA action and the remaining
16 75% goes to the Labor and Workforce Development Agency.

17 **FIRST CAUSE OF ACTION**

18 Misclassification as Independent Contractors and Private Attorney Gen. Act (PAGA)
19 (Violation of Labor Code §§ 226.8 and 2698, et seq.)
20 (Alleged by Class I: California-based ICs represented by Plaintiffs SANCHEZ, CAMEY,
21 RAMIREZ against Defendant CAPITAL, and all applicable DOES 1-30)

22 89. Plaintiffs SANCHEZ, CAMEY, RAMIREZ on behalf of themselves and the IC
23 putative class, re-allege and incorporate herein by this reference the allegations in each and
24 every paragraph above, as though fully set forth herein.

25 90. It is unlawful for any person or employer to willfully misclassify an individual
26 as an independent contractor. Labor Code § 226.8(a)(1). "'Willful misclassification' means
27 avoiding employee status for an individual by voluntarily and knowingly misclassifying that
28 individual as an independent contractor." Labor Code § 226.8(i)(4).

 91. Labor Code § 226.8(b) provides if a person or employer has willfully
misclassified an individual as an independent contractor, the person or employer shall be

1 subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than
2 fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines
3 permitted by law.

4 92. Pursuant to Labor Code §226.8 (c), if the person or employer has engaged in or
5 is engaging in a pattern or practice of willfully misclassifying individuals as independent
6 contractors, the person or employer shall be subject to a civil penalty of not less than ten
7 thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each
8 violation, in addition to any other penalties or fines permitted by law.

9 93. Defendant CAPITAL violated Labor Code § 226.8 by willfully misclassifying
10 its ICs, past and present, including Plaintiffs SANCHEZ, CAMEY and RAMIREZ, as
11 independent contractors, rather than employees.

12 94. Defendant CAPITAL has engaged in a pattern and practice, as alleged herein, of
13 wilfully misclassifying its IC employees as independent contractors to avoid payment of
14 overtime, establishment of a meal/rest break policy, taxes, insurance and other costs that
15 accompany employees.

16 95. Plaintiffs are entitled to recover the civil penalties assessed against Defendant
17 CAPITAL for its violations of Labor Code § 226.8 as it relates to Plaintiffs SANCHEZ,
18 CAMEY and RAMIREZ and all other current or former ICs. Plaintiffs are also entitled to
19 recover an award of reasonable attorney's fees and costs. Labor Code § 2699(g)(1).

20 96. Plaintiffs are informed and believe there are other current and former aggrieved
21 employees who suffered similar violations. Plaintiffs bring this action on behalf of other
22 current and former aggrieved employees.

23 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
24 forth.

SECOND CAUSE OF ACTION

Unlawful Terms and Conditions and Private Attorney Gen. Act (PAGA)
(Violation of Labor Code §§ 432.5 and 2698, et seq.)
(Alleged by Class I: California- based ICs represented by Plaintiffs SANCHEZ, CAMEY,
RAMIREZ against Defendant CAPITAL, and all applicable DOES 1-30)

97. Plaintiffs SANCHEZ, CAMEY, RAMIREZ on behalf of themselves and the IC putative class, re-allege and incorporate herein by this reference the allegations in each and every paragraph above, as though fully set forth herein.

98. Plaintiffs SANCHEZ, CAMEY, RAMIREZ and other California-based IC putative Class I members are/were employees of Defendant CAPITAL under the laws of the State of California within the meaning of the Labor Code and Wage Order.

99. Labor Code § 432.5 provides that “[n]o employer, or agent, manager, superintendent, or officer thereof, shall require any employee or applicant for employment to agree, in writing, to any term or condition which is known by such employer, or agent, manager, superintendent, or officer thereof to be prohibited by law.”

100. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do not have a civil penalty specifically specified, there is an established civil penalty for a violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation in which CAPITAL violated the Labor Code including Section 432.5.

101. Through Defendant CAPITAL’s conduct during the applicable statutory period including, but not limited to, the conduct set forth herein, including that alleged on information and belief, Defendant CAPITAL, its agents, managers, superintendents, or officers, required many of its employees, including Plaintiffs SANCHEZ, CAMEY, and RAMIREZ to agree, in writing, to any term or condition which is known by Defendant CAPITAL, its agents, managers, superintendents, or officers, to be prohibited by law

102. As a direct result of Defendant CAPITAL’s violations alleged herein, Plaintiffs SANCHEZ, CAMEY, RAMIREZ and other California-based IC putative Class I members have suffered, and continue to suffer, substantial losses as a result of the terms or conditions

1 prohibited by law that they were required to agree to, including the use and enjoyment of
2 monies lost as a result of the unlawful terms and conditions, lost interest, expenses and
3 attorney's fees and costs in seeking to compel Defendant CAPITAL to fully perform its
4 obligation under state law, all to their respective damage in amounts according to proof at trial
5 and within the jurisdictional limitations of this Court.

6 103. Plaintiffs SANCHEZ, CAMEY, RAMIREZ on behalf of themselves and other
7 IC Class I members seek to recover in a civil action to the fullest extent permissible all
8 available remedies including, but not limited to, unpaid wages to the extent permissible, the
9 monies owed from Defendants' violations, interest thereon, recovery of civil penalties,
10 reasonable attorney's fees and costs of suit, injunctive relief, and any other permitted remedies
11 including those permitted pursuant to the Labor Code § 2698 et seq., and Code of Civil
12 Procedure § 1021.5. The exact amount of the applicable penalties is an amount to be shown
13 according to proof at trial and within the jurisdictional limits of the Court.

14 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
15 forth.

16 **THIRD CAUSE OF ACTION**

17 Failure to Indemnify for Expenses and Losses in Discharging Duties and
18 Private Attorney Gen. Act (PAGA)

19 (Violation of Labor Code §§ 2802 and 2698, et seq.)

20 (Alleged by Class I, II and III: California- based ICs and JWs represented by Plaintiffs
21 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
22 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

23 104. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
24 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
25 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
26 allege and incorporate herein by this reference the allegations in each and every paragraph
27 above, as though fully set forth herein.

28 105. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
JWs putative Class I, II, III members are/were employees of Defendant CAPITAL under the
laws of the State of California within the meaning of the Labor Code and Wage Order.

1 106. Labor Code § 2802(a) provides that “[a]n employer shall indemnify his or her
2 employee for all necessary expenditures or losses incurred by the employee in direct
3 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
4 the employer, even though unlawful, unless the employee, at the time of obeying the
5 directions, believed them to be unlawful.”

6 107. Pursuant to Labor Code § 2804 any contract or agreement, express or implied,
7 made by any employee to waive the benefits of Section 2802 or any part thereof, is null and
8 void.

9 108. Through Defendant CAPITAL’s conduct during the applicable statutory period
10 including, but not limited to, the conduct set forth herein, including that alleged on information
11 and belief, Defendant CAPITAL failed to indemnify Plaintiffs SANCHEZ, CAMEY,
12 RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
13 GALINDO and other members of California-based ICs and JWs putative Class I, II, III as
14 required by Labor Code § 2802.

15 109. Any agreement or contract made by California-based ICs including Plaintiffs
16 SANCHEZ, CAMEY and RAMIREZ to waive the benefits of Labor Code § 2802 is null and
17 void.

18 110. Labor Code § 2802(c) states that “[f]or purpose of [2802], the term ‘necessary
19 expenditures or losses’ shall include all reasonable costs, including, but not limited to
20 attorney’s fees incurred by the employee enforcing the rights granted by [2802].”

21 111. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
22 not have a civil penalty specifically specified, there is an established civil penalty for a
23 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
24 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
25 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
26 Code including Section 2802.

27 112. As a direct result of Defendant CAPITAL’s violations alleged herein, Plaintiffs
28 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,

1 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
2 I, II, III, have suffered and continue to suffer, substantial losses related to failure to be
3 indemnified for the expenses and losses, including the use and enjoyment of such monies, lost
4 interest on such monies and expenses and attorney's fees and costs in seeking to compel
5 Defendant CAPITAL to fully perform its obligation under state law, all to their respective
6 damage in amounts according to proof at trial and within the jurisdictional limitations of this
7 Court.

8 113. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
9 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
10 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
11 to recover in a civil action to the fullest extent permissible all available remedies including but
12 not limited to unpaid balance of the indemnification from Defendants' violations, interest
13 thereon permitted by Labor Code § 2802(b), recovery of civil penalties, reasonable attorney's
14 fees and costs of suit, injunctive relief, and any other permitted remedies including those
15 permitted pursuant to the Labor Code §§ 2698 et seq., 2802, 2804 and Code of Civil Procedure
16 § 1021.5. The exact amount of the applicable penalties is an amount to be shown according to
17 proof at trial and within the jurisdictional limits of the Court.

18 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
19 forth.

20 **FOURTH CAUSE OF ACTION**

21 Unlawful Deductions, Repayment of Wages and Secret Underpayment of Wages and
22 Private Attorney Gen. Act (PAGA)

23 (Violation of Labor Code §§221, 223, 224, 1198, 2698, et seq. IWC Wage Order
24 "Hours and Days of Work" and "Minimum Wage" Sections)

(Alleged by Class I, II and III: California- based ICs and JWs represented by Plaintiffs
25 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
26 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

27 114. Plaintiffs IC Class Representatives: SANCHEZ, CAMEY, RAMIREZ and JW
28 Class Representatives: JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
and GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members,

1 re-allege and incorporate herein by this reference the allegations in each and every paragraph
2 above, as though fully set forth herein.

3 115. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
4 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
5 JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
6 under the laws of the State of California and within the meaning of the Labor Code and Wage
7 Order.

8 116. Pursuant to Labor Code § 221, it shall be unlawful for any employer to collect
9 or receive from an employee any part of wages theretofore paid by said employer to said
10 employee.

11 117. Labor Code § 223 provides that where any statute or contract requires an
12 employer to maintain the designated wage scale, it shall be unlawful to secretly pay a lower
13 wage while purporting to pay the wage designated by statute or by contract.

14 118. Labor Code § 224 provides that an employer may lawfully withhold or divert
15 portions of an employee's wages only when the employer is required or empowered to do so.

16 119. Labor Code § 1198 states: "The maximum hours of work and the standard
17 conditions of labor fixed by the commission shall be the maximum hours of work and the
18 standard conditions of labor for employees. The employment of any employee for longer
19 hours than those fixed by the order or under conditions of labor prohibited by the order is
20 unlawful."

21 120. The "Minimum Wages" section and the "Hours and Days of Work" section of
22 the applicable Wage Order provide as a standard of conditions of labor that employees be paid
23 at least the applicable minimum wage and overtime wages for regular time and overtime time
24 suffered or permitted to work respectively.

25 121. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
26 not have a civil penalty specifically specified, there is an established civil penalty for a
27 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
28 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved

1 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
2 Code including Sections 224 and 1198.

3 122. At all relevant times hereto, Defendant CAPITAL was/is Plaintiffs SANCHEZ,
4 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
5 and GALINDO and other California-based ICs and JWs putative Class I, II, III members'
6 employer within the meaning of Labor Code section 558, who violated or caused to be
7 violated, a section of Part 2, Chapter 1, of the Labor Code or any provision regulating hours
8 and days of work in any Order of the Industrial Welfare Commission and, as such, are subject
9 to penalties for each underpaid employee as set forth in Labor Code § 558 including the
10 payment of the underpaid wages to affected employees.

11 123. Labor Code § 558 provides a penalty for a violation of Labor Code § 1198
12 which is collectable through the PAGA statute.

13 124. Labor Code § 210 provides a penalty for a violation of Labor Code § 204 which
14 is collectable through the PAGA statute.

15 125. Labor Code § 225.5 states that every person who unlawfully withholds wages
16 due any employee in violation of Labor Code §§ 221 and 223 shall be subject to a civil penalty
17 of one hundred dollars (\$100) for each initial violation of failing to pay each employee and, for
18 each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200)
19 for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

20 126. Through Defendant CAPITAL's conduct during the applicable statutory period
21 including, but not limited to, the conduct set forth herein, including that alleged on information
22 and belief, Defendants made directly and/or indirectly unlawful deductions, secretly underpaid
23 wages, and required unlawful repayment of wages, including but not limited to requiring
24 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
25 ALFARO, AGUILAR and GALINDO and other California-based ICs and JWs putative Class
26 I, II, III members to pay for certain expenses and employment-related costs that are the
27 responsibility of Defendants to pay. Defendant CAPITAL also failed to pay all wages due for
28 "all hours worked" in performing tasks incidental to cleaning services (e.g. attending meetings,

1 scheduling employees, commuting in between job sites, etc.) and consequently underpaid its
2 ICs and JWs for the actual hours each worked, in violation of Labor Code §§ 221, 223, 224 and
3 in violation of Labor Code § 1198 and the Wage Order.

4 127. As a direct result of Defendant CAPITAL's violations alleged herein, Plaintiffs
5 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
6 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
7 I, II, III have suffered and continue to suffer, substantial losses including but not limited to the
8 use and enjoyment of such monies, lost interest on such monies and expenses and attorney's
9 fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under
10 state law, all to their respective damage in amounts according to proof at trial and within the
11 jurisdictional limitations of this Court.

12 128. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
13 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
14 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
15 to recover in a civil action to the fullest extent permissible all available remedies including but
16 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
17 including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other
18 permitted remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 221,
19 223, 224, 225.5, 210, 558, 1198 and Code of Civil Procedure §1021.5. The exact amount of
20 the applicable penalties is an amount to be shown according to proof at trial and within the
21 jurisdictional limits of the Court.

22 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
23 forth.

FIFTH CAUSE OF ACTION

Failure to Pay Overtime Wages and Private Attorney Gen. Act (PAGA)
(Violation of Labor Code §§ 510, 1198, 2698, et seq. and
IWC Wage Order "Hours and Days of Work" Section)

(Alleged by Class I, II and III: California- based ICs and JW's represented by Plaintiffs
SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

129. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
GALINDO, on behalf of themselves and the ICs and JW's putative Class I, II, III members, re-
allege and incorporate herein by this reference the allegations in each and every paragraph
above, as though fully set forth herein.

130. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
JW's putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
under the laws of the State of California within the meaning of the Labor Code and Wage
Order.

131. Labor Code § 510 provides in pertinent part: "Eight hours of labor constitutes a
day's work. Any work in excess of 8 hours in one workday and any work in excess of 40
hours in any one workweek and the first eight hours worked on the seventh day of work in any
one workweek shall be compensated at the rate of no less than one and one-half times the
regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be
compensated at the rate of no less than twice the regular rate of pay for an employee. In
addition, any work in excess of eight hours on any seventh day of a workweek shall be
compensated at the rate of no less than twice the regular rate of pay of an employee."

132. Labor Code § 1198 states: "The maximum hours of work and the standard
conditions of labor fixed by the commission shall be the maximum hours of work and the
standard conditions of labor for employees. The employment of any employee for longer
hours than those fixed by the order or under conditions of labor prohibited by the order is
unlawful."

1 133. The "Hours and Days of Work" section of the applicable Wage Order provides
2 as a standard of conditions of labor that employees be paid at least the applicable overtime
3 wage overtime hours suffered or permitted to work respectively.

4 134. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
5 not have a civil penalty specifically specified, there is an established civil penalty for a
6 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
7 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
8 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
9 Code including Section 1198.

10 135. At all relevant times herein, Defendant CAPITAL was/is Plaintiffs SANCHEZ,
11 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
12 and GALINDO and other California-based ICs and JWs putative Class I, II, III members'
13 employer within the meaning of Labor Code § 558, who violated or caused to be violated, a
14 section of Part 2, Chapter 1, of the Labor Code or any provision regulating hours and days of
15 work in any Order of the Industrial Welfare Commission and, as such, are subject to penalties
16 for each underpaid employee as set forth in Labor Code § 558 including the payment of the
17 underpaid wages to affected employees.

18 136. Labor Code § 1194 states "Notwithstanding any agreement to work for a lesser
19 wage, any employee receiving less than the legal minimum wage or the legal overtime
20 compensation applicable to the employee is entitled to recover in a civil action the unpaid
21 balance of the full amount of his minimum wage or overtime compensation, including interest
22 thereon, reasonable attorney's fees and costs of suit."

23 137. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
24 person acting on behalf of an employer who violates, or causes to be violated, a section of this
25 chapter or any provision regulating hours and days of work in any order of the Industrial
26 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
27 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
28 underpaid employee for each pay period for which the employee was underpaid in addition to

1 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
2 hundred dollars (\$100) for each underpaid employee for each pay period for which the
3 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
4 (3) wages recovered pursuant to this section shall be paid to the affected employee.

5 138. Through Defendant CAPITAL's conduct during the applicable statutory period
6 including, but not limited to, the conduct set forth herein, including that alleged on information
7 and belief, Defendants failed to pay Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE
8 HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other
9 California-based ICs and JWs putative Class I, II, III members all overtime wages for all
10 overtime worked, all in violation of Labor Code §§ 510 and 1198.

11 139. As a direct result of Defendant CAPITAL's violations alleged herein, Plaintiffs
12 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
13 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
14 I, II, III have suffered and continue to suffer substantial losses including, but not limited, to the
15 use and enjoyment of such wages, lost interest on such monies and expenses and attorney's
16 fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under
17 state law, all to their respective damage in amounts according to proof at trial and within the
18 jurisdictional limitations of this Court.

19 140. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
20 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
21 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
22 to recover in a civil action to the fullest extent permissible all available remedies including but
23 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
24 including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other
25 permitted remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 510,
26 558, 1194, 1198 and Code of Civil Procedure §§ 1021.5. The exact amount of the applicable
27 penalties is an amount to be shown according to proof at trial and within the jurisdictional
28 limits of the Court.

1 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
2 forth.

3 **SIXTH CAUSE OF ACTION**

4 Failure to Provide Meal Periods and Private Attorney Gen. Act (PAGA)
(Violation of Labor Code §§ 226.7, 512, and IWC Wage Order "Meal Periods" Section)
(Alleged by Class I, II and III: California-based ICs and JWs represented by Plaintiffs
5 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
6 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

7 141. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
8 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
9 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
10 allege and incorporate herein by this reference the allegations in each and every paragraph
11 above, as though fully set forth herein.

12 142. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
13 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
14 JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
15 under the laws of the State of California within the meaning of the Labor Code and Wage
16 Order.

17 143. Labor Code § 512 provides "[a]n employer may not employ an employee for a
18 work period of more than five hours per day without providing the employee with a meal
19 period of not less than 30 minutes, except that if the total work period per day of the employee
20 is no more than six hours, the meal period may be waived by mutual consent of both the
21 employer and employee. An employer may not employ an employee for a work period of
22 more than 10 hours per day without providing the employee with a second meal period of not
23 less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second
24 meal period may be waived by mutual consent of the employer and the employee only if the
25 first meal period was not waived."

26 144. The "Meal Period" section of the applicable Wage Order provides as a standard
27 of condition of labor that an employee working more than five hours be provided a meal period
28 of not less than 30 minutes, except when a work period of not more than six hours will

1 complete the day's work and the meal period is waived by mutual consent of the employee and
2 employer.

3 145. Labor Code § 226.7 provides "[a]n employer shall not require an employee to
4 work during a meal or rest or recovery period mandated pursuant to an applicable statute, or
5 applicable regulation, standard, or order of the Industrial Welfare Commission, the
6 Occupational Safety and Health Standards Board, or the Division of Occupational Safety and
7 Health."

8 146. Through Defendant CAPITAL's conduct during the applicable statutory period
9 including, but not limited to, the conduct set forth herein, including that alleged on information
10 and belief, Defendant CAPITAL lacked a policy which directly and/or indirectly relieved
11 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
12 ALFARO, AGUILAR and GALINDO and other California-based ICs and JWs putative Class
13 I, II, III members of all duty for uninterrupted 30-minute periods at all times suffered or
14 permitted to work for Defendant CAPITAL, and, in fact, had practices and procedures that
15 impeded the members of Class I, II, and III, from taking such meal breaks.

16 147. Pursuant to Labor Code § 226.7(c) and "Meal Period" section of the applicable
17 Wage Order, if an employer fails to provide an employee a meal period in accordance with a
18 state law, the employer shall pay the employee one hour of pay at the employee's regular rate
19 of compensation for each workday that the meal period is not provided.

20 148. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
21 person acting on behalf of an employer who violates, or causes to be violated, a section of this
22 chapter or any provision regulating hours and days of work in any order of the Industrial
23 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
24 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
25 underpaid employee for each pay period for which the employee was underpaid in addition to
26 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
27 hundred dollars (\$100) for each underpaid employee for each pay period for which the
28

1 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
2 (3) wages recovered pursuant to this section shall be paid to the affected employee.

3 149. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
4 not have a civil penalty specifically specified, there is an established civil penalty for a
5 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
6 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
7 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
8 Code including Sections 226.7 and 512.

9 150. As a direct result of Defendant CAPITAL's violations alleged herein, Plaintiffs
10 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
11 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
12 I, II, III have suffered and continue to suffer substantial losses including but not limited to the
13 use and enjoyment of such wages, lost interest on such monies and expenses and attorney's
14 fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under
15 state law, all to their respective damage in amounts according to proof at trial and within the
16 jurisdictional limitations of this Court.

17 151. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
18 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
19 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
20 to recover in a civil action to the fullest extent permissible all available remedies including but
21 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
22 including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other
23 permitted remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 558,
24 and Code of Civil Procedure § 1021.5. The exact amount of the applicable penalties is an
25 amount to be shown according to proof at trial and within the jurisdictional limits of the Court.

26 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
27 forth.

28 **SEVENTH CAUSE OF ACTION**
Failure to Provide Rest Periods and Private Attorney Gen. Act (PAGA)

(Violation of Labor Code § 226.7 and IWC Wage Order "Rest Periods" Section)
(Alleged by Class I, II and III: California- based ICs and JWs represented by Plaintiffs
SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

152. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-allege and incorporate herein by this reference the allegations in each and every paragraph above, as though fully set forth herein.

153. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL under the laws of the State of California within the meaning of the Labor Code and Wage Order.

154. The "Rest Period" section of the applicable Wage Order provides as a standard of condition of labor employers must authorize and permit nonexempt employees to take a rest period at the minimum rate of a net ten (10) consecutive minutes for each four (4) hour work period, or major fraction thereof.

155. Labor Code § 226.7 provides "[a]n employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health."

156. Through Defendant CAPITAL's conduct during the applicable statutory period including, but not limited to, the conduct set forth herein, including that alleged on information and belief, Defendant CAPITAL lacked a policy which directly and/or indirectly authorized and permitted Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and JWs putative Class I, II, III members to take rest periods at all times suffered or permitted to

1 work for Defendant CAPITAL, and, in fact, had practices and procedures that impeded the
2 members of Class I, II, and III, from taking such rest breaks.

3 157. Pursuant to Labor Code § 226.7(c) and "Rest Period" section of the applicable
4 Wage Order, if an employer fails to provide an employee a rest period in accordance with a
5 state law, the employer shall pay the employee one hour of pay at the employee's regular rate
6 of compensation for each workday that the rest period that the employer failed to authorize or
7 permit.

8 158. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
9 person acting on behalf of an employer who violates, or causes to be violated, a section of this
10 chapter or any provision regulating hours and days of work in any order of the Industrial
11 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
12 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
13 underpaid employee for each pay period for which the employee was underpaid in addition to
14 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
15 hundred dollars (\$100) for each underpaid employee for each pay period for which the
16 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
17 (3) wages recovered pursuant to this section shall be paid to the affected employee.

18 159. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
19 not have a civil penalty specifically specified, there is an established civil penalty for a
20 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
21 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
22 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
23 Code including Section 226.7(c).

24 160. As a direct result of Defendant CAPITAL's violations alleged herein, Plaintiffs
25 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
26 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
27 I, II, III have suffered and continue to suffer substantial losses including but not limited to the
28 use and enjoyment of such wages, lost interest on such monies and expenses and attorney's

1 fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under
2 state law, all to their respective damage in amounts according to proof at trial and within the
3 jurisdictional limitations of this Court.

4 161. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
5 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
6 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
7 to recover in a civil action to the fullest extent permissible all available remedies including but
8 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
9 including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other
10 permitted remedies including those permitted pursuant Labor Code §§ 2698 et seq., 558, and
11 Code of Civil Procedure § 1021.5. The exact amount of the applicable penalties is an amount
12 to be shown according to proof at trial and within the jurisdictional limits of the Court.

13 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
14 forth.

15 **EIGHTH CAUSE OF ACTION**

16 Failure to Pay Minimum Wages and Private Attorney Gen. Act (PAGA)
17 (Violation of Labor Code §§ 1197, 1198, 2698, et seq. and
18 IWC Wage Order "Minimum Wage" Section)

19 (Alleged by Class I, II and III: California- based ICs and JWs represented by Plaintiffs
20 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
21 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

22 162. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
23 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
24 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
25 allege and incorporate herein by this reference the allegations in each and every paragraph
26 above, as though fully set forth herein.

27 163. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
28 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
under the laws of the State of California within the meaning of the Labor Code and Wage
Order.

1 164. Labor Code § 1197 states “The minimum wage for employees fixed by the
2 commission is the minimum wage to be paid to employees, and the payment of a less wage
3 than minimum wage so fixed is unlawful.”

4 165. Labor Code § 1198 states: “The maximum hours of work and the standard
5 conditions of labor fixed by the commission shall be the maximum hours of work and the
6 standard conditions of labor for employees. The employment of any employee for longer
7 hours than those fixed by the order or under conditions of labor prohibited by the order is
8 unlawful.”

9 166. The “Minimum Wages” section and the “Hours and Days of Work” section of
10 the applicable Wage Order provides as a standard of conditions of labor that employees be paid
11 at least the applicable minimum wage and overtime wages for regular time and overtime time
12 suffered or permitted to work respectively.

13 167. Through Defendant CAPITAL’s conduct during the applicable statutory period
14 including, but not limited to, the conduct set forth herein, including that alleged on information
15 and belief, Defendant CAPITAL directly and/or indirectly paid Plaintiffs SANCHEZ,
16 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
17 and GALINDO and other California-based ICs and JWs putative Class I, II, III members less
18 than minimum wage for all times suffered or permitted to work for Defendant CAPITAL.
19 Defendant CAPITAL further failed to satisfy minimum wage requirements and secretly paid a
20 lower wage while purporting to pay the wage designated by statute or by contract to when it
21 failed to pay the named Plaintiffs and Class members for “all hours worked” in performing
22 work which was incidental to cleaning services (e.g. attending meetings, scheduling
23 employees, commuting in between job sites, etc.) and consequently underpaid its ICs and JWs
24 for the actual hours each worked in violation of Labor Code §§ 1197, 1198 and the applicable
25 Wage Orders.

26 168. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
27 person acting on behalf of an employer who violates, or causes to be violated, a section of this
28 chapter or any provision regulating hours and days of work in any order of the Industrial

1 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
2 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
3 underpaid employee for each pay period for which the employee was underpaid in addition to
4 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
5 hundred dollars (\$100) for each underpaid employee for each pay period for which the
6 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
7 (3) wages recovered pursuant to this section shall be paid to the affected employee.

8 169. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
9 not have a civil penalty specifically specified, there is an established civil penalty for a
10 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
11 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
12 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
13 Code including Sections 1197 and 1198.

14 170. Labor Code § 1194 states "Notwithstanding any agreement to work for a lesser
15 wage, any employee receiving less than the legal minimum wage or the legal overtime
16 compensation applicable to the employee is entitled to recover in a civil action the unpaid
17 balance of the full amount of his minimum wage or overtime compensation, including interest
18 thereon, reasonable attorney's fees and costs of suit."

19 171. At all relevant times hereto, Defendant CAPITAL was/is Plaintiffs SANCHEZ,
20 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
21 and GALINDO and other California-based ICs and JWs putative Class I, II, III members'
22 employer and/or person acting on behalf of Defendants within the meaning of Labor Code §
23 558, who violated or caused to be violated, a section of Part 2, Chapter 1, of the Labor Code or
24 any provision regulating hours and days of work in any Order of the Industrial Welfare
25 Commission and, as such, are subject to penalties for each underpaid employee as set forth in
26 Labor Code § 558 including the payment of the underpaid wages to affected employees.

27 172. As a direct result of Defendant CAPITAL's violations alleged herein, Plaintiffs
28 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,

1 AGUILAR and GALINDO and other members of California-based ICs and JWs putative Class
2 I, II, III have suffered and continue to suffer, substantial losses including but not limited to the
3 use and enjoyment of such monies, lost interest on such monies and expenses and attorney's
4 fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under
5 state law, all to their respective damage in amounts according to proof at trial and within the
6 jurisdictional limitations of this Court.

7 173. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
8 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
9 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
10 to recover in a civil action to the fullest extent permissible all available remedies including but
11 not limited to all monies that CAPITAL should have lawfully paid, penalties including civil
12 penalties, interest, reasonable attorney's fees and costs of suit, and any other permitted
13 remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 558, 1194,
14 1194.2, 1197, 1198 and Code of Civil Procedure § 1021.5. The exact amount of the applicable
15 penalties is an amount to be shown according to proof at trial and within the jurisdictional
16 limits of the Court.

17 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
18 forth.

19 **NINTH CAUSE OF ACTION**

20 Failure to Provide and Maintain Accurate Itemized Wage Statements and
Private Attorney Gen. Act (PAGA)

21 (Violation of Labor Code §§ 226, 1174, 1198, 2698, et seq. and
IWC Wage Order "Records" Section)

22 (Alleged by Class I, II and III: California- based ICs and JWs represented by
Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
23 ALFARO, AGUILAR and GALINDO against
Defendant CAPITAL, and all applicable DOES 1-30)

24
25 174. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
26 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
27 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
28

1 allege and incorporate herein by this reference the allegations in each and every paragraph
2 above, as though fully set forth herein.

3 175. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
4 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
5 JWs putative Class I, II, III members are/were non-exempt employees of CAPITAL under the
6 laws of the State of California within the meaning of the Labor Code and Wage Order. Labor
7 Code § 226(a) states in pertinent part "Every employer shall, semimonthly or at the time of
8 each payment of wages, furnish each of his or her employees, either as a detachable part of the
9 check, draft, or voucher paying the employee's wages, or separately when wages are paid by
10 personal check or cash, an accurate itemized statement in writing showing":

- 11 i. Gross wages earned;
- 12 ii. Total hours worked by the employee, except for any employee whose
13 compensation is solely based on a salary and who is exempt from payment of overtime under
14 subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
- 15 iii. the number of piece-rate units earned and any applicable piece rate if the
16 employee is paid on a piece-rate basis;
- 17 iv. All deductions;
- 18 v. Net wages earned;
- 19 vi. The inclusive dates of the period for which the employee is paid;
- 20 vii. The name of the employee and only the last four digits of his or her social
21 security number or an employee identification number other than a social security number;
- 22 viii. The name and address of the legal entity that is the employer;
- 23 ix. All applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate by the employee. The deductions made from
25 payment of wages shall be recorded in ink or other indelible form, properly dated, showing the
26 month, day, and year, and a copy of the statement and the record of the deductions shall be
27 kept on file by the employer for at least three years at the place of employment or at a central
28 location within the State of California.

1 176. Labor Code § 1174 requires employers to maintain records containing the
2 information specified in § 1174 including but not limited to employees' total hours worked, an
3 accurate hourly rate, accurate computation of net wages and when employees begin and end
4 each work period.

5 177. Labor Code § 1198 states: "The maximum hours of work and the standard
6 conditions of labor fixed by the commission shall be the maximum hours of work and the
7 standard conditions of labor for employees. The employment of any employee for longer hours
8 than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

9 178. The "Records" section of the applicable Wage Order provides as a standard of
10 condition of labor that accurate records be maintained by the employer including but not
11 limited to the total hours worked in the payroll period and applicable rates of pay.

12 179. Through Defendant CAPITAL's conduct during the applicable statutory period
13 including, but not limited to, the conduct set forth herein, including that alleged on information
14 and belief, Defendant CAPITAL knowingly and intentionally failed to provide accurate
15 itemized wage statements reflecting, among other things, accurate number for "all hours
16 worked", accurate gross wages earned, accurate hourly rate, accurate method of computation
17 for net wages paid to Plaintiffs SANCHEZ, CAMEY, RAMIREZ and other California-based
18 IC putative Class I members, including but not limited to as a result of its knowing and
19 intentional misclassification of the above name Plaintiffs as independent contractors, and failed
20 to maintain the records required by Labor Code §§ 226(a), 1174 and 1198.

21 180. Through Defendant CAPITAL's conduct during the applicable statutory period
22 including, but not limited to, the conduct set forth herein, including that alleged on information
23 and belief, Defendant CAPITAL knowingly and intentionally failed to provide accurate
24 itemized wage statements reflecting, among other things, accurate number for "all hours
25 worked", accurate gross wages earned, accurate hourly rate, accurate method of computation
26 for net wages paid to Plaintiffs JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
27 AGUILAR and GALINDO and other California-based JW putative Class II and III members,
28 and failed to maintain the records required by Labor Code §§ 226(a), 1174 and 1198.

1 181. Labor Code § 226(e)(1) states "An employee suffering injury as a result of a
2 knowing and intentional failure by an employer to comply with subdivision (a) is entitled to
3 recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in
4 which a violation occurs and one hundred dollars (\$100) per employee for each violation in a
5 subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000),
6 and is entitled to an award of costs and reasonable attorney's fees."

7 182. Labor Code § 226(e)(2)(A) provides that an employee is deemed to suffer injury
8 for purposes of Section 226(e) of the Labor Code if the employer fails to provide a wage
9 statement. Furthermore, pursuant to Labor Code § 226(e)(2)(B), an employee is deemed to
10 suffer injury for purposes of Section 226(e) of the Labor Code if the employer fails to provide
11 accurate and complete information as required by any one or more items (1) to (9), inclusive,
12 of subdivision (a) and the employee cannot promptly and easily determine from the wage
13 statement alone one or more of the items specified in Labor Code § 226(e)(2)(B)(i)-(iv).

14 183. Labor Code § 226(h) states "An employee may also bring an action for
15 injunctive relief to ensure compliance with this section, and is entitled to an award of costs and
16 reasonable attorney's fees."

17 184. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
18 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
19 JWs putative Class I, II, III members suffered injuries as a result of Defendant CAPITAL's
20 intentional and knowing failure to provide to them and maintain the writings required by Labor
21 Code § 226(a), as set forth herein. Defendant CAPITAL's failure to provide and maintain
22 accurate statements, as alleged herein, left Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE
23 HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other
24 California-based ICs and JWs putative Class I, II, III, on information an belief, without the
25 ability to know, understand and question the hours worked and wage earned and due. As a
26 direct result, Plaintiffs and members ICs and JWs have suffered and continue to suffer
27 substantial injuries, losses and actual damages related to Defendant's violations, including lost
28

1 wages, lost interest on such wages, and expense and attorney's fees in seeking to compel
2 Defendant to fully perform its obligations.

3 185. At all relevant times hereto, Defendant CAPITAL was/is Plaintiffs SANCHEZ,
4 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
5 and GALINDO and other California-based ICs and JWs putative Class I, II, III members'
6 employer and/or person acting on behalf of Defendants within the meaning of Labor Code §
7 558, who violated or caused to be violated, a section of Part 2, Chapter 1, of the Labor Code or
8 any provision regulating hours and days of work in any Order of the Industrial Welfare
9 Commission and, as such, are subject to penalties for each underpaid employee as set forth in
10 Labor Code § 558 including the payment of the underpaid wages to affected employees.

11 186. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
12 person acting on behalf of an employer who violates, or causes to be violated, a section of this
13 chapter or any provision regulating hours and days of work in any order of the Industrial
14 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
15 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
16 underpaid employee for each pay period for which the employee was underpaid in addition to
17 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
18 hundred dollars (\$100) for each underpaid employee for each pay period for which the
19 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
20 (3) wages recovered pursuant to this section shall be paid to the affected employee.

21 187. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
22 not have a civil penalty specifically specified, there is an established civil penalty for a
23 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
24 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
25 employee per pay period for each subsequent violation in which CAPITAL violated Labor
26 Code §§ 226, 1174 and 1198.

27 188. As a direct result of Defendant CAPITAL's violations as set forth hereinabove,
28 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,

1 ALFARO, AGUILAR and GALINDO and other members of California-based ICs and JWs
2 putative Class I, II, III have suffered and continue to suffer, substantial losses related to the use
3 and enjoyment of such wages, as the result of Defendant's failure to maintain records in
4 compliance with the Labor Code and Wage Order including but not limited to the expenses and
5 attorney's fees and costs in seeking to compel Defendant CAPITAL to fully perform its
6 obligation under state law, all to their respective damage in amounts according to proof at trial
7 and within the jurisdictional limitations of this Court.

8 189. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
9 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
10 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
11 to recover in a civil action to the fullest extent permissible all available remedies including but
12 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
13 including civil penalties, injunctive relief, interest, reasonable attorney's fees and costs of suit,
14 and any other permitted remedies including those permitted pursuant to the Labor Code §§
15 2698 et seq., 226 et seq., 558, 1174, 1197, 1198 and Code of Civil Procedure § 1021.5. The
16 exact amount of the applicable penalties is an amount to be shown according to proof at trial
17 and within the jurisdictional limits of the Court.

18 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
19 forth.

20 **TENTH CAUSE OF ACTION**

21 Failure to Pay Timely Wages During Employment and Private Attorney Gen. Act (PAGA)
(Violation of Cal. Labor Code §§ 204, 1198, 2698, et seq. and IWC Wage Order)
(Alleged by Class I, II and III: California-based ICs and JWs represented by
22 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
23 ALFARO, AGUILAR and GALINDO against
24 Defendant CAPITAL, and all applicable DOES 1-30)

25 190. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
26 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
27 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
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1 allege and incorporate herein by this reference the allegations in each and every paragraph
2 above, as though fully set forth herein.

3 191. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
4 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
5 JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
6 under the laws of the State of California within the meaning of the Labor Code and Wage
7 Order.

8 192. Labor Code § 204 provides the timeframes by which employers must pay wages
9 due to their employees. Pursuant to Labor Code § 204, other applicable laws and regulations,
10 and public policy, an employer must timely pay its employees for all hours worked, “all
11 wages...earned by any person in any employment are due and payable twice during each
12 calendar month, in days designated in advance by the employer as the regular paydays.”

13 193. Labor Code § 1198 states: “The maximum hours of work and the standard
14 conditions of labor fixed by the commission shall be the maximum hours of work and the
15 standard conditions of labor for employees. The employment of any employee for longer
16 hours than those fixed by the order or under conditions of labor prohibited by the order is
17 unlawful.”

18 194. The “Minimum Wages” section and the “Hours and Days of Work” section of
19 the applicable Wage Order provides as a standard of conditions of labor that employees be paid
20 at least the applicable minimum wage and overtime wages for regular time and overtime time
21 suffered or permitted to work respectively.

22 195. Through Defendant CAPITAL’s conduct during the applicable statutory period
23 including, but not limited to, the conduct set forth herein, including that alleged on information
24 and belief, Defendant CAPITAL, its agents, managers, superintendents, or officers, directly
25 and/or indirectly failed to pay Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE
26 HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other
27 California-based ICs and JWs putative Class I, II, III members their wages within the time
28

1 requirements set forth in Labor Code § 204 and in violation of Labor Code § 1198 and the
2 applicable Wage Order.

3 196. Labor Code § 210 provides a penalty for a violation of Labor Code § 204 which
4 is collectable through the PAGA statute.

5 197. Labor Code § 558 provides a penalty for a violation of Labor Code § 1198
6 which is collectable through the PAGA statute.

7 198. At all relevant times herein, Defendant CAPITAL was/is Plaintiffs SANCHEZ,
8 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
9 and GALINDO and other California-based ICs and JWs putative Class I, II, III members'
10 employer and/or person acting on behalf of Defendants within the meaning of Labor Code §
11 558, who violated or caused to be violated, a section of Part 2, Chapter 1, of the Labor Code or
12 any provision regulating hours and days of work in any Order of the Industrial Welfare
13 Commission and, as such, are subject to penalties for each underpaid employee as set forth in
14 Labor Code § 558 including the payment of the underpaid wages to affected employees.

15 199. Labor Code § 558 establishes a civil penalty as follows: Any employer or other
16 person acting on behalf of an employer who violates, or causes to be violated, a section of this
17 chapter or any provision regulating hours and days of work in any order of the Industrial
18 Welfare Commission (including the "Hours and Days of Work" section of the Wage Order)
19 shall be subject to a civil penalty of (1) for any initial violation, fifty dollars (\$50) for each
20 underpaid employee for each pay period for which the employee was underpaid in addition to
21 an amount sufficient to recover underpaid wages; (2) for each subsequent violation, one
22 hundred dollars (\$100) for each underpaid employee for each pay period for which the
23 employee was underpaid in addition to an amount sufficient to recover underpaid wages; and
24 (3) wages recovered pursuant to this section shall be paid to the affected employee.

25 200. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
26 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
27 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek
28 to recover in a civil action to the fullest extent permissible all available remedies including but

1 not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties
2 including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other
3 permitted remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 204,
4 210, 558, 1198 and Code of Civil Procedure § 1021.5. The exact amount of the applicable
5 penalties is an amount to be shown according to proof at trial and within the jurisdictional
6 limits of the Court.

7 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
8 forth.

9 **ELEVENTH CAUSE OF ACTION**

10 Failure to Pay Wages Due Upon Termination and Private Attorney Gen. Act (PAGA)
(Violation of Labor Code §§ 201, 202, 203, 2698, et seq. and IWC Wage Order)
(Alleged by Class I, II and III: California- based ICs and JWs represented by Plaintiffs
11 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
12 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

13 201. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW
14 Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and
15 GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members, re-
16 allege and incorporate herein by this reference the allegations in each and every paragraph
17 above, as though fully set forth herein.

18 202. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
19 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based ICs and
20 JWs putative Class I, II, III members are/were non-exempt employees of Defendant CAPITAL
21 under the laws of the State of California within the meaning of the Labor Code and Wage
22 Order.

23 203. Labor Code § 201(a) states "If an employer discharges an employee, the wages
24 earned and unpaid at the time of discharge are due and payable immediately."

25 204. Labor Code § 202(a) states "If an employee not having a written contract for a
26 definite period quits his or her employment, his or her wages shall become due and payable not
27 later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or
28 her intention to quit, in which case the employee is entitled to his or her wages at the time of

1 quitting. Notwithstanding any other provision of law, an employee who quits without
2 providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests
3 and designates a mailing address. The date of the mailing shall constitute the date of payment
4 for purposes of the requirement to provide payment within 72 hours of the notice of quitting.”

5 205. Through Defendant CAPITAL’s conduct during the applicable statutory period
6 including, but not limited to, the conduct set forth herein, including that alleged on information
7 and belief, Defendant CAPITAL willfully failed to provide Plaintiffs JOSE HERNANDEZ,
8 JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other California-based JW
9 putative Class II and III members, whose employment with Defendant ended at any point in
10 the three years preceding the filing of the complaint or tolling thereof, with all wages due and
11 owing, including minimum wages, wages for “all hours worked”, overtime wages, all
12 deduction made from their wages for necessary expenses and cost, including insurance and
13 other tax related expenses within the time requirements set forth in Sections 201(a) and 202(a)
14 of Labor Code.

15 206. Labor Code § 203(a) states, in relevant part, “If an employer willfully fails to
16 pay, without abatement or reduction, in accordance with sections 201, 201.3, 201.5, 202, and
17 205.5, any wages of an employee who is discharged or who quits, the wages of the employee
18 shall continue as a penalty from the due date thereof at the same rate until paid or until an
19 action therefor is commenced; but the wages shall not continue for more than 30 days.”

20 207. Pursuant to Labor Code § 2699(f), for all provisions of the Labor Code that do
21 not have a civil penalty specifically specified, there is an established civil penalty for a
22 violation of the provisions as follows: one hundred dollars (\$100) for each aggrieved employee
23 per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved
24 employee per pay period for each subsequent violation in which CAPITAL violated the Labor
25 Code including Sections 201, 202 and 203.

26 208. As a direct result of Defendant CAPITAL’s violations as set forth hereinabove,
27 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
28 ALFARO, AGUILAR and GALINDO and other members of California-based ICs and JWs

putative Class I, II, III have suffered and continue to suffer, substantial losses related to the use and enjoyment of such wages, as the result of Defendant's failure to maintain records in compliance with the Labor Code and Wage Order including but not limited to the expenses and attorney's fees and costs in seeking to compel Defendant CAPITAL to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial and within the jurisdictional limitations of this Court.

209. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ and JW Class Representatives JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members seek to recover in a civil action to the fullest extent permissible all available remedies including but not limited to all monies that Defendant CAPITAL should have lawfully paid, penalties including civil penalties, interest, reasonable attorney's fees and costs of suit, and any other permitted remedies including those permitted pursuant to the Labor Code §§ 2698 et seq., 203 and Code of Civil Procedure § 1021.5. The exact amount of the applicable penalties is an amount to be shown according to proof at trial and within the jurisdictional limits of the Court.

WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set forth.

TWELFTH CAUSE OF ACTION

Negligent Misrepresentation

(Civil Code §§ 1709-1710)

(Alleged by Class I: California-based ICs represented by Plaintiffs SANCHEZ, CAMEY, and RAMIREZ against Defendant CAPITAL, and all applicable DOES 1-30)

210. Plaintiffs IC Class Representatives SANCHEZ, CAMEY, RAMIREZ on behalf of themselves and the ICs putative Class I members, re-allege and incorporate herein by this reference the allegations in each and every paragraph above, as though fully set forth herein.

211. A negligent misrepresentation has occurred because, through Defendant CAPITAL's conduct during the applicable statutory period including, but not limited to, the conduct set forth and alleged herein, including that alleged on information and belief: (a) Defendant CAPITAL has represented to Plaintiffs SANCHEZ, CAMEY, RAMIREZ and

1 members of the California-based ICs putative Class I that an important fact is true, that is, that
2 their proper classification is that of an independent contractor and not an employee; (b)
3 Defendant CAPITAL's representations are/were not true; (c) Defendant CAPITAL had no
4 reasonable grounds for believing the representation as to independent contractor status was true
5 when it made it; (d) Defendant CAPITAL intended that Plaintiffs SANCHEZ, CAMEY,
6 RAMIREZ and members of the California-based ICs putative Class I rely on this
7 representation as to independent contractor status; (e) Plaintiffs SANCHEZ, CAMEY,
8 RAMIREZ and members of the California-based ICs reasonably relied on Defendant
9 CAPITAL's representation including but not limited to paying employer-side payroll taxes and
10 other costs and being denied statutorily mandated employee benefits, when in fact Defendant
11 CAPITAL should have paid for these items and provided the statutorily mandated employee
12 benefits to them; (f) Plaintiffs SANCHEZ, CAMEY, RAMIREZ and members of the
13 California-based IC putative Class I have been harmed by Defendant CAPITAL's
14 representation including but not limited to out of pocket expenses (including payroll taxes) that
15 should have been paid by Defendant CAPITAL and being denied statutory employee benefits;
16 and (g) Plaintiffs SANCHEZ, CAMEY, RAMIREZ and members of the California-based ICs'
17 reliance on Defendant CAPITAL's representation that they are/were independent contractors
18 has been a substantial factor in causing their harm including the harm of not being paid
19 properly, having to pay for costs that Defendant CAPITAL should have paid, and not being
20 provided with statutory employee benefits.

21 212. As a direct and proximate result of Defendant CAPITAL's conduct, Plaintiffs
22 SANCHEZ, CAMEY, RAMIREZ and members of the California-based IC putative Class I
23 have been damaged.

24 213. Plaintiffs SANCHEZ, CAMEY and RAMIREZ are entitled and seek,
25 individually and on behalf of the California-based IC putative Class I, any and all available
26 remedies including but not limited to recovery of any and all damages (including pursuant to
27 Civil Code § 1709) including damages in the amount which will compensate Plaintiffs
28 SANCHEZ, CAMEY, RAMIREZ and members of the California-based IC putative Class I for

1 all the detriment proximately caused whether it could have been anticipated or not under Civil
2 Code § 3333, and recovery of reasonable attorney's fees and costs pursuant to Code of Civil
3 Procedure § 1021.5, and the substantial benefit doctrine, and/or the common fund doctrine.

4 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
5 forth.

6
7 **THIRTEENTH CAUSE OF ACTION**

8 **Unfair Business Practice**

9 (Business & Professions Code §§ 17200, et seq.)

10 (Alleged by Class I, II and III: California-based ICs and JWs represented by Plaintiffs
11 SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO,
12 AGUILAR and GALINDO against Defendant CAPITAL, and all applicable DOES 1-30)

13 214. Plaintiffs IC Class Representatives: SANCHEZ, CAMEY, RAMIREZ and JW
14 Class Representatives: JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
15 and GALINDO, on behalf of themselves and the ICs and JWs putative Class I, II, III members,
16 re-allege and incorporate herein by this reference the allegations in each and every paragraph
17 above, as though fully set forth herein.

18 215. Business & Professions Code § 17200 states: "As used in this chapter, unfair
19 competition shall mean and include any unlawful, unfair or fraudulent business act or practice
20 and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1
(commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions
21 Code."

22 216. Through Defendant CAPITAL's conduct during the applicable statutory period
23 including, but not limited to, the conduct alleged herein as set forth herein, including that
24 alleged on information and belief Defendant CAPITAL has engaged in business practices in
25 California by practicing, employing, and utilizing, the employment practices outlined in the
26 preceding paragraphs all in violation of California law and the applicable Industrial Welfare
27 Commission Wage Orders. Defendant CAPITAL's use of such practices constitutes an unfair
28 business practice, unfair competition, and provides an unfair advantage over Defendant
CAPITAL's competitors doing business in the State of California that comply with their

1 obligations to properly provide employment conditions in compliance with the law and pay
2 employees for all earned wages and compensation as required by law.

3 217. Defendant CAPITAL's violations of the Civil Code, Labor Code and the
4 applicable Wage Order and their scheme to lower payroll costs as alleged herein constitute
5 unlawful business practices because these actions were done in a systematic manner over a
6 period of time to the detriment of Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE
7 HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other
8 members of California-based ICs and JWs putative Class I, II, III. The acts complained of
9 herein occurred within the last four (4) years preceding the filing of this complaint and include,
10 but are not limited to, failure to (i) classify cleaning and janitorial crews properly as employees
11 and present them with agreements not prohibited by law; (ii) pay proper wages including that
12 of minimum and overtime wages and wages for all hours worked; (iii) indemnify employees;
13 (iv) pay timely wages upon termination of employment; and (v) maintain accurate records and
14 provide and maintain accurate itemized wage statements.

15 218. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
16 HERNANDEZ, ALFARO, AGUILAR and GALINDO are informed and believe and on that
17 basis alleges that, at all times herein mentioned, Defendant CAPITAL engaged in the above-
18 mentioned acts of unlawful, deceptive, and unfair business practices prohibited by Business
19 and Professions Code §§ 17200 et seq., including those set forth in the preceding paragraph,
20 thereby depriving Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
21 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other members of California-based
22 ICs and JWs putative Class I, II, III the minimum working condition standards and conditions
23 due, including those under Labor Code and Wage Order.

24 219. As a result of Defendant CAPITAL's unfair competition and unlawful business
25 practice, as alleged herein, Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ,
26 JUAN HERNANDEZ, ALFARO, AGUILAR and GALINDO and other members of
27 California-based ICs and JWs putative Class I, II, III have suffered injury in fact and lost
28

1 money or property. Plaintiffs have been deprived of the rights to wages and benefits due
2 including those as alleged herein.

3 220. Pursuant to Business & Professions Code § 17203, Plaintiffs SANCHEZ,
4 CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ, ALFARO, AGUILAR
5 and GALINDO are entitled to seek restitution of all wages and other monies owed on behalf of
6 themselves and other members of California-based ICs and JWs putative Class I, II, III
7 belonging to them, including interest thereon, which Defendant CAPITAL wrongfully
8 withheld from them and retained for itself by means of its unlawful and unfair business
9 practices.

10 221. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
11 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other members of California-based
12 ICs and JWs putative Class I, II, III are entitled to an injunction and other declaratory and
13 equitable relief against such practices to prevent future damage for which there is no adequate
14 remedy at law, and to avoid a multiplicity of lawsuits.

15 222. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
16 HERNANDEZ, ALFARO, AGUILAR and GALINDO are informed and believe, and on that
17 basis allege, that the illegal conduct alleged herein is continuing and there is no indication that
18 Defendant CAPITAL will not continue such activity into the future. Plaintiffs further allege
19 that if Defendant CAPITAL is not enjoined from the conduct set forth in this Complaint, it will
20 continue to fail to pay the wage and compensation required to be paid and will fail to comply
21 with other requirements of the Labor Code and Wage Order.

22 223. As a direct and proximate result of Defendant CAPITAL's conduct, Defendant
23 CAPITAL has received and will continue to receive monies that rightfully belong to members
24 of the general public who have been adversely affected by Defendant's conduct, as well as to
25 Plaintiffs by virtue of unpaid wages and other monies.

26 224. Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN
27 HERNANDEZ, ALFARO, AGUILAR and GALINDO and other members of California-based
28 ICs and JWs putative Class I, II, III are entitled and seek any and all available remedies

1 including but not limited to restitution and recovery of reasonable attorney's fees and costs
2 pursuant to Code of Civil Procedure § 1021.5, Business and Professions Code § 17200 et seq.,
3 the substantial benefit doctrine, and/or the common fund doctrine.

4 WHEREFORE, Plaintiffs and the Class Members pray for judgment as hereinafter set
5 forth.

6 PRAYER FOR RELIEF

7 WHEREFORE, Plaintiffs pray for damages for judgment against all Defendants
8 CAPITAL and DOES 1-30, jointly and severally, as applicable, as follows:

9 a. For declaratory relief to the extent permitted by law including but not limited to
10 (i) a declaration that SANCHEZ, CAMEY, RAMIREZ and other ICs are employees of
11 Defendant CAPITAL and that any agreement that purports to state otherwise is null and void,
12 and (ii) any agreement that purports to waive the protections of the Labor Code and Wage
13 Order are null and void;

14 b. For injunctive relief to the extent permitted by law including, but not limited to,
15 as provided by the Labor Code § 226(h), and Business and Professions Code § 17200 et seq.;

16 c. For restitution as provided by Business and Professions Code § 17200 et seq.;

17 d. For an order requiring Defendants CAPITAL and all applicable DOES to
18 restore and disgorge all funds to each affected person acquired by means of any act or practice
19 declare by this Court to be unlawful, unfair or fraudulent and, therefore, constituting unfair
20 competition under Business and Professions Code § 17200 et seq.;

21 e. For an award of unpaid wages, including minimum and overtime wages, wages
22 for "all hours worked" to the extent permissible by law to each affected person;

23 f. For an award of any and all monies required to be paid and/or reimbursed to
24 Plaintiffs SANCHEZ, CAMEY, RAMIREZ, JOSE HERNANDEZ, JUAN HERNANDEZ,
25 ALFARO, AGUILAR and GALINDO and other members of California-based ICs and JWs
26 putative Class I, II, III including but not limited to monies required to be indemnified for;
27
28

1 g. For penalties to the extent permitted pursuant to the Labor Code and Wage
2 Order including, but not limited to, waiting time penalties under Labor Code § 203, penalties
3 under Labor Code § 226(e), 558 and PAGA penalties;

4 h. For an award of damages to the extent permissible by the Labor Code and Civil
5 Code, including Labor Code § 226(e) and Civil Code §§ 1709, 1710, 3333;

6 i. For an award of liquidated damages to the extent permissible by Labor Code §
7 1194.2;

8 j. For pre- and post-judgment interest to the extent permitted by law including, but
9 not limited to, Labor Code §§ 218.6 and 1194;

10 k. For reasonable attorneys' fees and cost of suit and, to the extent permitted by
11 law, including pursuant to Labor Code §§ 218.5, 226, 1194, 2698 et seq., and Code of Civil
12 Procedure § 1021.5; and

13 l. An award of such other and further relief as this Court deems proper and just.

14 **DEMAND FOR JURY TRIAL**

15 Plaintiffs hereby demand trial of this matter by jury to the extent authorized by law.

16 Dated: April 25, 2014

COREY, LUZAICH, DE GHETALDI,
NASTARI & RIDDLE LLP

18 By: Amanda L. Riddle
19 AMANDA L. RIDDLE, ESQ.
Attorneys for Plaintiffs

20 Dated: April 25, 2014

LAW OFFICES OF PARVIZ DARABI

23 By: Parviz Darabi
24 PARVIZ DARABI, ESQ.
Attorneys for Plaintiffs

25 **ADDITIONAL PLAINTIFFS' COUNSEL**

26 Dania M. Alvarenga – Bar No. 244486
27 Alvarenga Law
1671 The Alameda Ste 307
San Jose, CA 95126

ex. 1

Law Office of Parviz Darabi

Parviz@darabilaw.com
San Francisco Airport Office
500 Airport Blvd, Suite 150
Burlingame, California 94010
650-343-5357 – phone
650-343-5391 – fax

January 21, 2014

NOTICE PURSUANT TO CALIFORNIA LABOR CODE § 2699.3 (a) (1)

BY CERTIFIED MAIL

California Labor and Workforce Development Agency
Attn.: Rachel Van Patten
800 Capitol Mall, MIC-55
Sacramento, CA 95814

BY CERTIFIED MAIL

Capital Contractors, Inc., which will do business in California as,
Capital Building Maintenance Services, Inc.
National Corporate Research, Ltd., Agent for Service of Process
523 W. 6th Street, Suite 544
Los Angeles, CA 90014

Re: Employees: Lilliana Sanchez dba Hernández Janitorial Services; Yolanda Camey dba Professional CCS Cleaning Service; Jose Antonio Hernandez, Juan Carlos Hernandez, Jose Alfaro, Irma Gonzalez Aguilar, Victor Alotaya, Lucina Galindo, and other similarly situated employees.

Pursuant to California Labor Code §2699 and §2699.3 (a) (1), the above-named employees, by and through their attorneys, hereby give notice that Capital Contractors, Inc. (hereinafter "CCI") has violated the provisions of SB 459, California Code of Regulations, Title 8, § 11070(9)(A) and California Labor Code §§ 201, 202, 203, 204, 210, 213(d), 221, 223, 225.5, 226, 226.3, 226.4, 226.7, 226.8, 450, 510, 512, 558, 1194, 2753, 2802, 2804, 2810 and applicable sections of Division of Labor Standards Enforcement (DLSE), Industrial Welfare Commission Order (IWC) Order No. 5, as follows:

1. CCI has failed to compensate its employees for all hours worked, including overtime hours worked and minimum wage rate, thereby violating California Labor Code §§ 204, 223, 210, 510, 558, 225.5 applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
2. CCI has made illegal deductions from its employees' wages for costs, expenditures or losses incurred by them in discharging their duties, including but not limited to, deductions for service fees, bank fees, direct deposit fees, uniforms, supplies, materials and other things, thereby violating California Labor Code §§213(d), 221, 225.5, 450, applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
3. CCI has failed to provide its employees with an itemized statement showing the number of hours worked, thereby violating California Labor Code §§ 226, 226.3, 226.4, applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
4. CCI has failed to provide its employees with the required meal periods, and/or uninterrupted meal periods for each day employees worked, thereby violating California Labor Code §§ 226.7, 512 and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
5. CCI has failed to provide its employees with the required rest periods, and/or uninterrupted rest periods for each day employees worked, thereby violating California Labor Code §§ 226.7, 512 and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
6. CCI has failed to indemnify its employees and further failed to compensate its employees for the expenditures or losses incurred by them in direct consequence of the discharge of their duties and of their obedience to the directions of the employer, thereby violating California Code of Regulations, Title 8, § 11070(9)(A), California Labor Code §§2802, 2804 and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE). See In re Work Uniform Cases, 133 Cal. App. 4th 328 (2005); Cal. Labor Code §§ 2698 et seq.
7. CCI has failed to pay its employees all the wages and money they were owed at the time their employment with CCI ended and for a period in excess of thirty day, thereby violating California Labor Code §§ 201, 202, 203, applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
8. CCI has engaged in pattern or practice and willfully misclassified its employees, as independent contractors or willfully charged them or deducted from their compensation fees for any purpose including for service fees, bank fees, including direct deposit fees, goods, materials, space rental, services, government licenses, repairs, equipment

maintenance or fines thereby violating SB 452, California Labor Code §§ 226.8, 2753 and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).

9. CCI has engaged in pattern or practice and has entered into an agreement or contract for labor or services with its employees knowing that the contract and agreement does not include funds sufficient to allow its employees / contractors to comply with applicable law and regulations governing labor or services to be provided, thereby violating California Labor Code §2810 and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).
10. CCI has engaged and continued an unlawful business policy and practice as part of the operation of its business entities in that it knowingly and intentionally fails to pay its employees all their wages and money they are owed, thereby violating California B&P Code 17200, *et seq.*, California Labor Code, and applicable sections of Industrial Welfare Commission Order (IWO) No. 5 and Division of Labor Standards Enforcement (DLSE).

CCI's employees are entitled to recovery of the unpaid/wrongfully withheld wages, civil and statutory penalties, interest, and recovery of legal fees and costs.

Sincerely,
THE LAW OFFICE OF PARVIZ DARABI

By: 

Parviz Darabi, Esq.

2

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SAN MATEO COUNTY

APR 25 2014

Clerk of the Superior Court
BY [Signature] DEPUTY CLERK

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

CAPITAL CONTRACTORS INC., a New York Corporation which will do business in California as, CAPITAL BUILDING MAINTENANCE SERVICES INC.; and DOES 1-30, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

LILLIANA SANCHEZ, YOLANDA CAMEY,
"Additional parties Attachment form is attached"

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

CIV 528210
CASE NUMBER (Número de Caso):

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California County of San Mateo
400 County Center
Redwood City, CA 94063

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Parviz Darabi, Esq.
500 Airport Blvd., Suite 150
Burlingame, CA 94010
LAW OFFICES OF PARVIZ DARABI
Tel: (650) 343-5357 / Fax: (650) 343-5391

DATE: 04/25/14 APR 25 2014
(Fecha)

JOHN C. FITTON

Clerk, by
(Secretario)

[Signature]

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para probar el cumplimiento de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

- under:
- ☐ CCP 416.10 (corporation)
 - ☐ CCP 416.20 (defunct corporation)
 - ☐ CCP 416.40 (association or partnership)
 - ☐ other (specify):

- ☐ CCP 416.60 (minor)
- ☐ CCP 416.70 (conservatee)
- ☐ CCP 416.90 (authorized person)

- ☐ by personal delivery on (date):

(SEAL)



SHORT TITLE:

SANCHEZ, et. al. vs. CAPITAL CONTRACTORS

CASE NUMBER:

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

☒ Plaintiff ☐ Defendant ☐ Cross-Complainant ☐ Cross-Defendant

JUAN CARLOS RAMIREZ, JOSE ANTONIO HERNANDEZ, JUAN CARLOS HERNANDEZ, JOSE ALFARO, IRMA GONZALEZ AGUILAR, LUCINA CALINDO, individually and on behalf of all others similarly situated,

Page _____ of _____

Page 1 of 1



ADDITIONAL PARTIES ATTACHMENT

Attachment to Summons

LILLIANASANCHEZ,

Attorney or Party without Attorney: PARVIZ DARABI 500 AIRPORT BLVD. SUITE 150 BURLINGAME, CA 94010 Telephone No: 650-343-5357 FAX No: 650-343-5391		For Court Use Only FILED SAN MATEO COUNTY MAY 20 2014 Clerk of the Superior Court By <i>[Signature]</i> DEPUTY CLERK	
Attorney for: Plaintiff		Ref. No. or File No.:	
Insert name of Court, and Judicial District and Branch Court: SAN MATEO COUNTY SUPERIOR COURT UNLIMITED JURISDICTION			
Plaintiff: LILLIANA SANCHEZ, ET AL Defendant: CAPITAL CONTRACTORS, INC., ET AL			
PROOF OF SERVICE S&C	Hearing Date: Wed, Aug. 27, 2014	Time: 9:00AM	Dept/Div: 7
		Case Number: CIV528210	

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the SUMMONS AND COMPLAINT; CIVIL CASE COVER SHEET; CERTIFICATE RE COMPLEX CASE DESIGNATION; NOTICE OF CASE MANAGEMENT CONFERENCE; BLANK CASE MANAGEMENT STATEMENT; CIVIL TRIAL COURT MANAGEMENT RULES; ADR STIPULATION AND EVALUATION INSTRUCTIONS PACKET; NOTICE RE: NONREFUNDABLE ADVANCE JURY FEES INFO.

3. a. Party served:

CAPITAL CONTRACTORS INC., A NEW YORK CORPORATION WHICH WILL DO BUSINESS IN CALIFORNIA AS CAPITAL BUILDING MAINTENANCE SERVICES INC.
 GENELLE VILLARRUEL-CUSTOMER SERVICE REPRESENTATIVE

b. Person served:

4. Address where the party was served:

NATIONAL CORPORATE RESEARCH LTD.
 523 W. 6TH STREET
 SUITE 544
 LOS ANGELES, CA 90014

5. I served the party:

a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Thu., May. 08, 2014 (2) at: 9:34AM

6. The "Notice to the Person Served" (on the Summons) was completed as follows:

on behalf of: CAPITAL CONTRACTORS INC., A NEW YORK CORPORATION WHICH WILL DO BUSINESS IN CALIFORNIA AS CAPITAL BUILDING MAINTENANCE SERVICES INC.
 Under CCP 416.10 (corporation)

7. Person Who Served Papers:

a. GARY HANSEN C.C.P.S.

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. The Fee for Service was: \$30.00



HANSEN'S GUARANTEED PROCESS CO.
 9530 IMPERIAL HWY. SUITE D.
 DOWNEY, CA 90242
 (562)803-6400, FAX (562)803-6456
 gary@hansenguaranteed.com
 www.hansenguaranteed.com



e. I am: (3) registered California process server

(i) Owner
 (ii) Registration No.: 2988
 (iii) County: Los Angeles
 (iv) Expiration Date: Fri, Sep. 12, 2014

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Fri, May. 09, 2014

RECEIVED

MAY 19 2014

**SUPERIOR COURT
CIVIL DIVISION**

3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address): Parviz Darabi, Esq. SBN209021 LAW OFFICES OF PARVIZ DARABI 500 Airport Blvd., Suite 150 Burlingame, CA 94010 TELEPHONE NO.: (650) 343-5357 FAX NO.: (650) 343-5357 ATTORNEY FOR (Name): Plaintiffs	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-weight: bold; margin: 5px 0;">SAN MATEO COUNTY</div> <div style="font-weight: bold; margin: 5px 0;">APR 25 2014</div> <div style="font-size: 0.8em; margin: 5px 0;">Clerk of the Superior Court</div> <div style="font-size: 0.8em; margin: 5px 0;">DEPUTY CLERK</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 County Center MAILING ADDRESS: CITY AND ZIP CODE: Redwood City, CA 94063 BRANCH NAME: Unlimited Jurisdiction	
CASE NAME: SANCHEZ, et. al. vs. CAPITAL CONTRACTORS INC., et. al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER: CIV 528210 JUDGE: DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input checked="" type="checkbox"/> Other employment (15) #1 | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|---|
2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): **THIRTEENTH**
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 4/25/2014

Parviz Darabi, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)-Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice-Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice

Other Professional Malpractice (not medical or legal)

Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach-Seller Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case-Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ-Administrative Mandamus
Writ-Mandamus on Limited Court Case Matter
Writ-Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal-Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal.

Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint RICO (27)

Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition Partnership and Corporate Governance (21)

Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

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**Superior Court of California
County of San Mateo
Civil Department
400 County Center
Redwood City, CA 94063-1655
(650)363-4599
www.sanmateocourt.org**

LILLIANA SANCHEZ Plaintiff(s) vs. CAPITAL CONTRACTORS INC Defendant(s)	Notice of Complex Case Status Conference Case No.: CIV 528210 Date: 06/27/14 Time: 9:00 AM Dept. 21
Title: LILLIANA SANCHEZ ETAL VS CAPITAL CONTRACTORS INC	

You are hereby given notice of your Complex Case Status Conference. The date, time and department have been written above. At this conference, the Presiding Judge will decide whether this action is a complex case within the meaning of California Rules of Court ("CRC"), Rule 3.400, subdivision (a) and whether it should be assigned to a single judge for all purposes.

1. In accordance with applicable **San Mateo County Local Rule 2.30**, you are hereby ordered to:
 - a. **Serve** copies of this notice, your Civil Case Cover Sheet, and your Certificate Re: Complex Case Designation on all named parties in this action no later than service of your first appearance pleadings.
 - b. **Give reasonable notice** of the Complex Case Status Conference to all named parties in this action, even if they have not yet made a first appearance or been formally served with the documents listed in subdivision (a). Such notice shall be given in the same manner as required for an ex parte application pursuant to CRC 3.1203.

2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order To Show Cause hearing will be at the same time as the Complex Case Status Conference. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.

3. An action is provisionally a complex case if it involves one or more of the following types of claims: (1) antitrust or trade regulation claims; (2) construction defect claims involving many parties or structures; (3) securities claims or investment losses involving many parties; (4) environmental or toxic tort claims involving many parties; (5) claims involving massive torts; (6) claims involving class actions; or (7) insurance coverage claims arising out of any of the claims listed in subdivisions (1) through (6). The Court shall treat a provisionally complex action as a complex case until the Presiding Judge has the opportunity to decide whether the action meets the definition in CRC 3.400(a).

4. Any party who files either a Civil Case Cover Sheet (pursuant to CRC 3.401) or a counter or joinder Civil Case Cover Sheet (pursuant to CRC 3.402, subdivision (b) or (c)), designating an action as a complex case in Items 1, 2 and/or 5, must also file an accompanying Certificate Re: Complex Case Designation in the form prescribed by the Court. The certificate must include supporting information showing a reasonable basis for the complex case designation being sought. Such supporting information may include, without limitation, a brief description of the following factors as they pertain to the particular action: (1) management of a large number of

separately represented parties; (2) complexity of anticipated factual and/or legal issues; (3) numerous pretrial motions that will be time-consuming to resolve; (4) management of a large number of witnesses or a substantial amount of documentary evidence; (5) coordination with related actions pending in one or more courts in other counties, states or countries or in a federal court; (6) whether or not certification of a putative class action will in fact be pursued; and (7) substantial post-judgment judicial supervision.

For further information regarding case management policies and procedures, see the court website at www.sanmateocourt.org

* Telephonic appearances at Complex Case Status Conference are available by contacting CourtCall, LLC, an independent vendor, at least 5 business days prior to the scheduled conference.

CLERK'S CERTIFICATE OF MAILING

I hereby certify that I am the clerk of this Court, not a party to this cause; that I served a copy of this notice on the below date, by placing a copy thereof in separate sealed envelopes addressed to the address shown by the records of this Court, and by then sealing said envelopes and depositing same, with postage fully pre-paid thereon, in the United States Mail at Redwood City, California.

Date: 04/28/14

John C. Fitton,
Court Executive Officer/Clerk

By: REBECCA KRILL
Deputy Clerk

Copies mailed to:

PARVIZ DARABI
500 AIRPORT BLVD., STE 150
BURLINGAME CA 94010

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NOTICE OF CASE MANAGEMENT CONFERENCE

Lilliana Sanchez et al

Case No. **CIV 528210**

Capital Contractors, Inc.

vs.

Date: 8-27-14

FILED
SAN MATEO COUNTY

Time 9:00 a.m.

APR 25 2014
Clerk of the Superior Court
BY BRITNEY CLARK

--on Tuesday & Thursday
--on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

1. In accordance with applicable California Rules of the Court and local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to:
 - a) **Serve** all named defendants and file proofs of service on those defendants with the court within **60-days** of filing the complaint (CRC 201.7).
 - b) **Serve** a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action.
 - c) **File and serve** a completed Case Management Statement at least **15-days** before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions.
 - d) **Meet and confer**, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than **30-days** before the date set for the Case Management Conference.
2. **If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order to Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.**
3. Continuances of Case Management Conferences are highly disfavored unless good cause is shown.
4. Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation to ADR and Proposed Order (see attached form). If plaintiff files a Stipulation to ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a **completed** stipulation to another ADR process (e.g., mediation) **10-days** prior to the first scheduled Case Management Conference, the Case Management Conference will be continued for 90-days to allow parties time to complete their ADR session. The court will notify parties of their new Case Management Conference date.
5. If you have filed a default or a judgment has been entered, your case is not automatically taken off Case Management Conference Calendar. If "Does", "Roes," etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
6. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
7. The Case Management judge will issue orders at the conclusion of the conference that may include:
 - a) Referring parties to voluntary ADR and setting an ADR completion date;
 - b) Dismissing or severing claims or parties;
 - c) Setting a trial date.
8. The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court's website at: www.sanmateocourt.org

*Telephonic appearances at case management conferences are available by contacting CourtCall, LLC, an independent vendor, at least five business days prior to the scheduled conference (see attached CourtCall information).

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Attorney or Party without Attorney (Name/Address) Parviz Darabi, Esq. Law Offices of Parviz Darabi 500 Airport Blvd., Ste 150 Burlingame, CA 94010 Telephone: (650)343-5357 State Bar No.: 209021 Attorney for: Plaintiffs	FOR COURT USE ONLY <div style="text-align: center;"> FILED SAN MATEO COUNTY APR 25 2014 Clerk of the Superior Court By <u><i>[Signature]</i></u> DEPUTY CLERK </div>
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
Plaintiff SANCHEZ, et al.	
Defendant CAPITAL CONTACTORS INC., et al.	
Certificate Re Complex Case Designation	Case Number CIV 528210

This certificate must be completed and filed with your Civil Case Cover Sheet if you have checked a Complex Case designation or Counter-Designation

1. In the attached Civil Case Cover Sheet, this case is being designated or counter-designated as a complex case [or as not a complex case] because at least one or more of the following boxes has been checked:
 - ☐ Box 1 – Case type that is best described as being [or not being] provisionally complex civil litigation (i.e., antitrust or trade regulation claims, construction defect claims involving many parties or structures, securities claims or investment losses involving many parties, environmental or toxic tort claims involving many parties, claims involving mass torts, or insurance coverage claims arising out of any of the foregoing claims).
 - ☒ Box 2 – Complex [or not complex] due to factors requiring exceptional judicial management
 - ☐ Box 5 – Is [or is not] a class action suit.

2. This case is being so designated based upon the following supporting information [including, without limitation, a brief description of the following factors as they pertain to this particular case: (1) management of a large number of separately represented parties; (2) complexity of anticipated factual and/or legal issues; (3) numerous pretrial motions that will be time-consuming to resolve; (4) management of a large number of witnesses or a substantial amount of documentary evidence; (5) coordination with related actions

pending in one or more courts in other counties, states or countries or in a federal court; (6) whether or not certification of a putative class action will in fact be pursued; and (7) substantial post-judgment judicial supervision];

This is a class action involving hundreds, if not thousands of potential plaintiffs. This case
will involve extensive discovery, including written discovery and depositions, and numerous
pre-trial motions that will be time consuming. Due to the underlying facts of the case, there are a
large number of witnesses. In addition, certification of a putative class action will be pursued.
Post-judgment judicial supervision will also be required.

(attach additional pages if necessary)

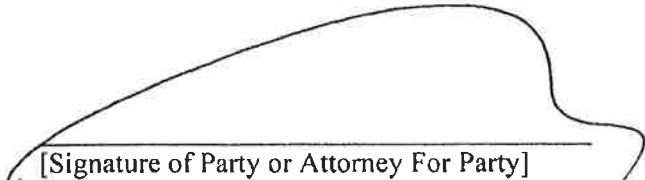
3. Based on the above-stated supporting information, there is a reasonable basis for the complex case designation or counter-designation [or noncomplex case counter-designation] being made in the attached Civil Case Cover Sheet.

I, the undersigned counsel or self-represented party, hereby certify that the above is true and correct and that I make this certification subject to the applicable provisions of California Code of Civil Procedure, Section 128.7 and/or California Rules of Professional Conduct, Rule 5-200 (B) and San Mateo County Superior Court Local Rules, Local Rule 2.30.

Dated: April 25, 2014

Parviz Darabi, Esq.

[Type or Print Name]


[Signature of Party or Attorney For Party]

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address):

Parviz Darabi, Esq.
LAW OFFICES OF PARVIZ DARABI
500 Airport Blvd., Suite 150
Burlingame, CA 94010

SBN209021

TELEPHONE NO.: (650) 343-5357

FAX NO. (Optional): (650) 343-5357

E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): Plaintiffs

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo

STREET ADDRESS: 400 County Center

MAILING ADDRESS:

CITY AND ZIP CODE: Redwood City, CA 94063

BRANCH NAME: Unlimited Jurisdiction

PETITIONER/PLAINTIFF: LILLIANA SANCHEZ,

RESPONDENT/DEFENDANT: CAPITAL CONTRACTORS INC., et. al.

FOR COURT USE ONLY

FILED
SAN MATEO COUNTY

MAY 14 2014

Clerk of the Superior Court

By 
DEPUTY CLERK

PROOF OF SERVICE BY FIRST-CLASS MAIL - CIVIL

CASE NUMBER:
CIV528210

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
500 Airport Blvd., Suite 150, Burlingame, CA 94010

3. On (date): 05/12/2014 I mailed from (city and state): Burlingame, CA 94010
the following documents (specify):
Notice of Complex Case Statu Conference

☐ The documents are listed in the Attachment to Proof of Service by First-Class Mail - Civil (Documents Served) (form POS-030(D)).

4. I served the documents by enclosing them in an envelope and (check one):
 - a. ☐ depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. ☒ placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
 - a. Name of person served: CAPITAL CONTRACTORS INC., a New York Corporation
 - b. Address of person served:
CAPITAL CONTRACTORS INC., a New York Corporation which will do business in California as,
CAPITAL BUILDING MAINTENANCE SERVICES INC.
Agent for Service of Process-NATIONAL CORPORATE RESEARCH, LTD.
523 W 6TH ST STE 544, LOS ANGELES CA 90014

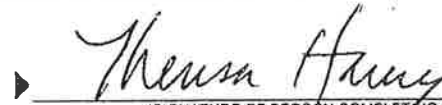
☐ The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail-Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 05/12/2014

Theresa Harvey

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)



(SIGNATURE OF PERSON COMPLETING THIS FORM)

RECEIVED
SAN MATEO COUNTY
MAY 14 2014
Clerk of the Superior Court

PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 400 South Hope Street, 8th Floor Los Angeles, California 90071.

On **June 6, 2014**, I caused the foregoing documents described as **DEFENDANT CAPITAL CONTRACTORS, INC.'S NOTICE OF REMOVAL OF CIVIL ACTION TO FEDERAL COURT** to be served on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Dario De Ghetaldi Amanda L. Riddle COREY, LUZAICH, DE GHETALDI, NASTARI & RIDDLE LLP 700 El Camino Real P.O. Box 669 Millbrae, CA 94030	Parviz Darabi Andrew G. Watters Daniel B. Swerdlin LAW OFFICES OF PARVIZ DARABI 500 Airport Blvd., Ste. 150 Burlingame, CA 94010
Dania M. Alvarenga ALVARENGA LAW 1671 The Alameda, Ste. 307 San Jose, CA 95126	

☒ **(BY MAIL)** Following ordinary business practices, I placed the document for collection and mailing at the offices of HOLLAND & KNIGHT LLP, 400 South Hope Street, 8th Floor, Los Angeles, California 90071, in a sealed envelope. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service, and, in the ordinary course of business, such correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **June 6, 2014**, at Los Angeles, California.


Mitsuko Eubanks

#29727669_v19